



to 3/35



**POLITICAL PHILOSOPHY**  
**FROM PLATO TO JEREMY BENTHAM**



*Das Wahre war schon längst gefunden,  
Hat edle Geisterschaft verbunden,  
Das alte Wahre, fass' es an!*

*Was fruchtbar ist, allein ist wahr.*

GOETHE'S *Vermächtnis*.

*For inquire, I pray thee of the former age,  
And apply thyself to that which their fathers  
have searched out  
(For we are but of yesterday, and know nothing,  
Because our days upon earth are a shadow);  
Shall not they teach thee, and tell thee,  
And utter words out of their heart?*

JOB, viii: 8-10





PLATO

DR. GÉZA ENGELMANN

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# POLITICAL PHILOSOPHY

From Plato to Jeremy Bentham

*TRANSLATED FROM THE GERMAN BY*

KARL FREDERICK GEISER, PH.D.

*Professor of Political Science in Oberlin College*

*WITH INTRODUCTIONS BY*

OSCAR JÁSZI, PH.D.

*Professor of Political Science in Oberlin College*



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**POLITICAL PHILOSOPHY**

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## EXPLANATORY NOTE

SINCE this book in its present form is the work of three authors a word of explanation, in addition to that given upon the title-page, as to the part contributed by each, may be noted here. The preface is the joint product of both editors; the introductions are all from the pen of Professor Jászi, except that of the twelfth chapter, which was written by the translator. Grateful acknowledgments are here made to Professor Frederick B. Artz of the History Department of Oberlin College for reading the manuscript of the introductions, and to our colleague in our own department, Mr. Norman Shaw, for preparing the index. The translator in particular is under special obligation to his wife, Florence Chaney Geiser, not only for the translation of several of the shorter chapters but for constant help at every stage of the work.

*A word to the Reader:* The method by which Dr. Engelmann here transforms the thought of the political philosophers—often so difficult in the original—into simple language, and which is so important a feature of this work, is thoroughly explained in the preface, which should be read before turning to any of the other parts of the book.

THE EDITORS



## PREFACE

THE text of the volume herewith introduced to the American public is a translation of the work of a Hungarian scholar, published in 1923 by Walter de Gruyter & Company of Berlin and Leipzig under the title *Meisterwerke der Staatsphilosophie*. If a justification for adding another book to the numerous works that have recently appeared in the field of political theory were necessary, the editors of this edition would not rest their case merely upon the plea of a revival of interest in political philosophy in American colleges and universities, but rather upon the fact that in his attempt to introduce the student and general reader to the master minds of political philosophy, Dr. Engelmann employs an entirely new method of presenting political theory that deserves a far wider claim to attention than the original German edition affords.

Introductions to political philosophy have hitherto been mainly of two distinct types; one gave us a résumé of the more important theories; the other gave us excerpts of the original text with preliminary comments. And while both methods have undoubted merits, and may be even excellent for those who have already an acquired interest in political theory, it is common knowledge that the great majority of students do not have that sustaining interest that the subject demands. And indeed it is at best difficult, under the methods commonly pursued, for beginners to become interested in a series of loose quotations or in a mass of *disjecta membra*, or to come into a personal

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and vital touch with the essential thoughts of the great representatives of political speculation.

An entirely new method is pursued by Dr. Engelmann. On the basis of a long, careful, and sympathetic study of fifteen of the greatest philosophers of state, he proceeded to reconstruct them in a vivid and personal manner following a sort of artistic intuition. He saw in his imagination these leading spirits, one might say, reincarnated at a phantom round table, presenting their views to our own generation. Thus we hear, for example, Plato or Aristotle giving his theories *in nuce*, not fragments of them, nor a commentary on them, but the very essence of their thought. His treatment is somewhat analogous to that employed by Count Gobineau in his famous book, *The Renaissance*, in which he attempted to reconstruct the living spirit of that age. The motives which animated Dr. Engelmann in producing this work are briefly stated in his own "Foreword" as follows:

The need of our time calls to the old masters of political science. What have they to tell us? Creating for their own time, they created for all time. Their insight into the human mind and its motives, their judgments concerning the organization of society, are wisdom acknowledged by mankind. They set goals for humanity toward which we ourselves strive; and they pointed out ways which we may tread with courage. With love and reverence have I read their works; and I have considered it my duty to record every thought that seemed valuable for the present for the benefit of those who are not privileged to study the works themselves. And my aim has been not to interpose my own ideas in a way that might seem inappropriate or disconcerting, but rather to arrange and formulate their thoughts clearly and concisely, as if the masters themselves were present-

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ing, in a brief discourse, whatever in their teachings is of importance to us—their legacy to us.

In thus approaching political theory those interested in the great works of political philosophy will have an immediate and personal acquaintance with the very essence of the theories of Plato, Aristotle, Thomas Aquinas, Dante, Machiavelli, Thomas More, Hobbes, Spinoza, Locke, Montesquieu, Rousseau, the authors of the *Federalist*, and Jeremy Bentham. Instead of reading fragments or excerpts of their great books, they will have in a single chapter the leading and creative ideas of each philosopher and at the same time they will get at least an impression of all the nuances and shades of beauty and flavor of the original. Reading the book, the students will feel political theories not as something afar off or strange or at best of purely historical value, but they will understand the contemporary background, the interests and emotions of the period which fomented the political struggles of past generations. It is hoped that on the basis of such an introduction the student will better appreciate the real rôle and function of political theories in the course of human evolution, and will be capable of discriminating between good and bad political thinking in our own day.

This revised attitude toward political theories seems to us very important at the present time. There was perhaps never a generation in history which would have

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repudiated in such a conceited manner the political theories and problems of the past like that European generation which made the socialist and communistic revolutions and lost them, with one seeming exception. This generation felt itself historically motivated in the sense that it pitied and ridiculed the political thinking of former epochs, especially that of the eighteenth century, which tried to deduce from certain dominant tendencies of human nature and certain permanent traits of human reason the laws of social life and political evolution. The two most influential schools of the later period, the historical idealism of Hegel and the historical materialism of Marx, become the chief supporters of an entirely relativistic attitude which acknowledges nothing fixed or permanent, either in human nature or in human evolution. The mysterious historical spirit of Hegel, in the thought of his lesser epigones, loses all touch with the real problem of struggling humanity and creates a sort of ever-changing *divina commedia* of growing and decaying cultures, in the sense conceived by Oswald Spengler, having no relation with the scorned categories of Nature or Reason. Similarly, the school of historical materialism left no small gap between the present and the past, maintaining that all rational calculation or moral intuition concerning the future is entirely futile because human society evolves according to certain dialectical laws which neither human reason nor moral determination can change. Thus our pre-war generation believed that our position in history was something unique and, therefore, that the political thinking and social reasoning of the past generation could serve only as an illustration for the better understanding of past historical processes, but that it could make no

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real contribution toward a better social organization and a more rational solution of our problems.

This attitude of a haughty relativism and of contempt for the claims of a political and social science, which would be more than a pure technic, seems to have become a driving force in present-day America where the materialism, relativism, and subjectivism of the pre-war Europe are in a manifest ascendancy among the radical thinkers of the younger generation. A recent book by Mr. Walter Lippmann, though very able and even brilliant in many respects, seems to us very characteristic of the new mentality, for the real meaning of his *Phantom Public* is the refutation of all claims, on the part of both political and moral science, to give directions and propose measures in our political and social struggles. Such directions and measures are non-existent according to the political pragmatism of Mr. Lippmann. We cannot teach either political maxims or moral laws, for we live in a constantly changing social reality, and the political maxims and moral laws of today will be useless and worthless slogans for the future. Therefore, we are told, there exists no political science or moral order, but only a social and moral empiricism which tries to make a workable compromise between antagonistic interests. It is quite natural that the logical consequence of such relativistic and subjective political thinking can be nothing else but the thesis which Mr. Lippmann really emphasized, that the sovereign national will of the classics of political theory is a sheer phantom which at best cannot do more than decide whether the political oligarchy should remain in or should be ousted by another oligarchy irrespective of any political principles or moral considerations.



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This dismal political science, which is somewhat analogous to the sophist thought, fighting the rational and moral order of the state emphasized by former philosophers, is under the optical illusion of what Professor Lester F. Ward used to call the *illusion of the proximate*. It is of the opinion that the political situation of the present capitalistic and imperialistic states, menaced by socialism and communism, is so unique and exceptional in history, and has changed so entirely both human nature and social surroundings, that the former political thought cannot apply to our own day. Just the opposite was the standpoint and conviction of nearly all great teachers in the political and social science of the past. Both Plato and Aristotle, as well as St. Augustine, Thomas Aquinas, Hobbes and Locke, Rousseau and Bentham, Kant and Fichte, Proudhon and Owen, and all the founders of political economy, were convinced that, in spite of the changing historical reality, there are some constant tendencies in human nature, and in the aspirations of our soul, concerning which certain very important generalizations can be made and without which no social, political, economic, or moral science is possible. This conviction was so deeply rooted that, for example, no less a man than Spinoza emphasized the truth that in politics hardly anything new can be said; and Bentham, that keen and fearless analyst of the human soul, clearly anticipated the present-day arguments of our relativists and pluralists, asserting the fact that "in the texture of the human frame some fibers there are which are the same in all places and in all times, whereas there are others which

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vary with the place and the time." And it is scarcely necessary to add that, according to the opinion of the great utilitarian, the permanent fibers of our texture are the more important in any scientific construction.

We are beginning to lose all our scientific and moral background in modern social and political science. Human nature is regarded as something perfectly malleable and therefore it has become an almost negligible quantity. This so-called scientific attitude is almost symbolically expressed in the chief dogma of the Russian Bolsheviks, who are convinced that we can reform human nature entirely by an act of the legislature and that, therefore, no political science in the classical sense is possible. Radical science not only considers human nature and social surroundings completely subject to the momentary wishes of the reformer, but at the same time there is, according to present thought, no permanent ideal for human behavior, no categorical imperative for truth, freedom of thought, humanitarianism, justice, or any other formulation of the eternal ideals in the human breast; we must make only shrewd compromises according to our interests or those of our groups. We cannot even do anything in the interest of our nation because the very idea of the nation has also become antiquated and is ridiculed by the pragmatist and the pluralist. What we really have is a group of selfish and antagonistic class interests, and every class in the national community is absolutely entitled to, and justified in, applying that standard of morality which it thinks is best for its own interest. Thus we get, as Leonhard Nelson said, "a jurisprudence without right." We may well add, a politics without justice and a state philosophy without ideals.

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It would be an interesting study to determine whence this change in the moral and scientific attitude came. Is it really true that since the death of Bentham or Kant or the passing of Herbert Spencer or Mazzini, such gigantic upheavals have taken place, either in the natural or the social sciences, as to justify this haughty and scornful attitude toward the scientific and moral foundation of former generations? To ask this question is, we believe, to realize the futility of the assertion. We have had no real crucial experience, either in the natural or in the moral sciences, which would justify us in regarding the whole trend, say, of the antique and of the eighteenth-century philosophy, as something unfounded or out of date.

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On the contrary, the greatest two experiments in practical politics in recent times, both the French bourgeois and Russian Bolshevik revolutions, demonstrate, to anybody who has eyes to see and ears to hear, that, for example, Aristotle or Machiavelli or Bentham or Owen knew human nature more deeply and comprehensively than the boosters of relativity and of the eternally changing human nature. Our present political period, with its lack of a scientific or moral compass in its practical aspiration, demonstrates clearly the truth of the assertion of Kant when he used to say: "If there is any science . . . which man really needs, it is that which I teach, to fill properly that place which is assigned to man in creation; a science from which he can learn what one must be in order to be human. . . ."

The reconstruction of the main political ideas of more

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than two thousand years by Doctor Engelmann points in the same direction. That which will strike the reader most forcefully in this book is the ardent actuality of the problems of former centuries from the point of view of our modern existence. There is scarcely a question or problem envisaged by those heroes of the past that has lost any of its interest or significance, notwithstanding the tremendous economic and intellectual changes since their centuries. In spite of these colossal changes the chief political problem of humanity has remained the same in essence: How can we guarantee the happiness of man, how can we maintain order in liberty, how can we avoid the misuse of an oligarchy and the hectic demagoguery of the majority, how can we reconcile democracy with the rule of the fittest, how can we secure peace, how can we lead into a safe harbor the ship of state between the Scylla of extreme misery and the Charybdis of extreme wealth? . . . And not only do we meet these same questions in very different ages, but from them we get, very often, answers which are incomparably more clear and astute than the "radical" theories we get from our moderns. For example, the age-old controversy of political science, whether the chief aim of politics should be to change human nature or the social surroundings, was discussed from opposite viewpoints by Rousseau and Bentham with such insight and sagacity that their respective theories may be regarded as models for this kind of speculation for all time. The whole political philosophy of the present-day Bolsheviki is clearly expressed by the French moralist in these remarkable phrases: "He who undertakes the change of a constitution must be sufficiently daring to change human nature, to mold men who are all inde-

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pendent creatures into parts of a greater whole. That means to kill in man naturally functioning forces and to implant new ones which he can only utilize with other men in common, in such a manner that hereafter he cannot lead an independent life, but only a life with others as part of the whole. It is necessary that the combined force of the whole should suppress the sum of the natural forces of the individuals . . . only thus can the legislature reach its aim." (As formulated by Dr. Engelmann.)

Opposed to this political alchemy, which tends inevitably toward dictatorship, the English soul atomist emphasizes just the opposite point of view in the following acute analysis: "Instead of despising, hypocritically, egoism, the acknowledgment of its natural necessity is the first step toward the establishment of a good constitution. No governmental system can be based on unselfishness. In the best possible constitution the problem is not that unselfish men should govern, but men whose special interests coincide with the general interest, who in the seeking of their particular interests should never find any support; that is, that they should seek the useful for the community out of their private interests. . . . Put little trust in the rulers—that is the device of the good constitution. . . ."

Or another example: The whole debate on individualism and communism was, in its deepest fundamentals, settled by Plato and Aristotle in a period when the economic and political structure of the state was entirely different from that of our own time. Nevertheless the psychological foundations of the problem remain the same, demonstrating that "some fibers of the human frame" remained really unaltered during our whole historical experience.

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It may be objected that the coincidences emphasized by us relate only to the most general tendencies and aspirations in human nature and that they have therefore no connection with the special problems and solutions demanded in our own age. This assertion is perfectly true if we understand by it that the factors of a given situation are all important and therefore even the best theories of the past cannot be as complete as the best theories of the present concerning a given political and historical situation. But this truth is not denied by any statement in the present preface. We merely wish to question whether the present generation is not too much inclined to forget the leading thinkers of the past in the substitution of some very mediocre, ill-conceived, and eclectic modern theories. This, of course, does not imply that original thinking is to be discouraged or that no attempt should be made to discover new methods and theories in social and political science; for it is unquestionably as true today as it ever was, that in the last analysis humanity does not suffer so much from bad political thinking as from not thinking at all. One may believe in progress and reform and yet agree with Goethe that "truth has long since been discovered" and that the present generation, in its impatience of the past and in its feverish desire for quick results, is attempting to reach a goal without the necessary guiding principles. The present generation is apt to forget that some ideals and Utopian desires (the *Wunschträume* of Freud) constitute a very important and relatively constant background in all political endeavors. The present generation is apt to forget the static tissue of the human soul amid its ever-

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changing constructive efforts. It overlooks the fact that *Change* and *Evolution* are two totally distinct things, and those who believe in evolution must acknowledge, with the classics of our theory, some constant principles in our kaleidoscopic struggles. The period in which we live is a period of much confused reading, on the basis of a very superficial fashion-selection, which very often boycotts the true values and glorifies loud compilations. At the same time there is an exaggerated admiration for facts and details, for a type of research work which aims exclusively at graduation, a *research work without hypothesis, without constructive ideas, without a wholesome theory*, a research work which Ihering called the emanation not of the brain but of sitting. In this atmosphere the really great achievements of past centuries are soon neglected, though Eugene Dühring, that genius so unjustly suppressed, was perfectly right in asserting that in every phase of human thought the real classics could be counted on the fingers of our two hands. Most of the other books are commentaries or compilations or hidden plagiarism. In spite of this fact the truly representative great thinkers of the past are scarcely read, though these leading spirits are generally far more easy to understand, far more clear, than the compilers of the present. The great spirits are not read because they do not favor the class interests and the minor political intrigues of the present day.

It is hoped that the work of Dr. Engelmann, with its broad and inspiring perspective, will help to bring the best political thought of two thousand years to the problems of the present, and that our students will realize how the questions and problems of political science repeat themselves in spite of the changing economic and intellectual

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*milieu*, not only in their vague outlines, but also very often in their essential features.

Before concluding this short introduction it may be well to answer some possible objections connected with the book of the Hungarian scholar. Some may not approve his selections from among the great political thinkers of the past. Many will doubtless regret not to find, for example, Bodin and Grotius and some of the great German classics, especially Kant and Fichte, on the list. We agree with these objections, but this apparent omission is due to a vaster plan which the author intends to execute. His scheme was to treat, in a subsequent volume, the systems concerning the law of nature in which, according to his view, Bodin and Grotius would have found a better place. The same volume would also contain the German classics. A third volume is to be devoted to the study of the Oriental philosophy of the state; and a fourth, to the political thinkers of the last century.

In anticipation of questions that may arise as to the advisability of basing the ideas of Plato exclusively upon the *Republic* and omitting the *Laws*, and those of Hobbes exclusively upon *De Cive* and disregarding *Leviathan*, it may be said that the essential philosophical principle of the *Laws* is the same as that of the *Republic* and that of *De Cive* the same as that of *Leviathan*. It is true that in the *Laws* Plato abandons the scheme of communism in women and property, but this concession is not the result of a theoretical change in his ideas so much as an endeavor to make his scheme feasible and available for



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those who did not receive sufficient education for the immediate establishment of a communistic constitution. Moreover, the concrete details of the *Laws* have no importance in principle and are not apt for a general reconstruction of his fundamental ideas. Similarly the really basic principles of the *Leviathan* are those of *De Cive*, whereas its speculation concerning the particular laws of nature are merely of historic interest. The omission of certain theological, historical, jural, and metaphysical speculations of the Philosophers is in conformity with Dr. Engelmann's fundamental purpose of giving only those parts of their systems which are still living and vividly and intimately connected with the political speculations of our own age.

A final word may be added concerning the introductory comments preceding the discourse of each philosopher. These introductions lay no claim to originality. Their only object is to draw the attention of the students to those political and social circumstances out of which the theories originated and to emphasize those solutions which have a pragmatic value for our present-day political speculation. Recurring again to the metaphor of our imaginary round table discussion from which we started, we may say that our introductions are intended merely to introduce the speaker to his audience.

KARL FREDERICK GEISER  
OSCAR JÁSZI

Oberlin College  
January 1, 1927

**POLITICAL PHILOSOPHY**  
**FROM PLATO TO JEREMY BENTHAM**



## CHAPTER I

PLATO (427-347 B.C.)

### INTRODUCTION

*PLATO, a member of the old aristocracy, was born at Athens, and during his whole life he remained loyal to his anti-democratic traditions. As a young man he became a disciple of Socrates and we are indebted to him for most of what we know concerning his great master. He may indeed be considered as the executor of the will of that unique philosopher. The influence of Socrates on Plato was a decisive one; his ethics, in particular, was a continuation and completion of the ideas of his teacher.*

*After the execution of Socrates Plato became what we would call today an extensive traveler. He went to Megara, made several trips to Cyrene and Egypt, visited later the school of Pythagoras in southern Italy, and twice called on the tyrant at Sicily, in order to persuade him to establish his ideal state. These trips in behalf of his ideas were not without danger, for the philosopher on two occasions encountered serious difficulties which imperiled his life. In middle life he founded his famous school in Athens, called the Academy, which was noted for its exclusive, aristocratic ideas. Plato taught here until his death, being interrupted only once by his adventure in Sicily.*

*It is still a matter of contention whether Plato should be*

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*regarded as the culmination of the Greek thought or rather as a product of the dissolving civilization of his people. But no one of any philosophical or artistic understanding will deny the powerful intuitive vision, the poetical charm, and the synthetic power of his speculation. Many of the greatest men of the history of philosophy came under the sway of the richness and profundity of his thought. His style is perhaps sometimes too vague and symbolical for scientific use (a danger which the form of dialogue, the unique vehicle of his thought, still more accentuates) but in spite of this artistic profusion he always opens new horizons in any investigation which he undertakes.*

*In his political theory, set forth first in the Republic, later in the Laws and to a less extent in the Statesman, he expounded all the essential ideas concerning the nature, the function, and the aim of the state as well as the classification of the forms of government which, further developed and elaborated in detail by Aristotle, became a common treasure for humanity and the influence of which is still very great in our contemporary thought. The powerful criticism, for example, of Mr. Bernard Bosanquet directed against the modern theories of the state is largely built on the Platonic conception of political thinking.*

*Plato has often been called a Utopian or a dreamer by those who indulge in a merely realistic explanation of social and political problems. His system of Ideas especially was often misunderstood and misrepresented (this kind of criticism had already begun with Aristotle) as something chaotically mystical or as an abstruse interpretation of reality; whereas the real aim and intention of Plato was an intuitive grasp of the evolutionary tendencies inherent in the diverse manifestations of Nature, a task which also in recent times*

## PLATO: INTRODUCTION

*has been frequently undertaken by some eminent and fruitful thinkers. Nor in his political system is he a founder of those Utopian state novels which have nothing to do with our present-day social and political realities. Just the opposite is true. Plato believed no less seriously in the immediate reality or feasibility of his state scheme than did Machiavelli, Karl Marx, or Lenin. His relation with the tyrants of Syracuse sufficiently demonstrates how eager he was for the concrete realizations of his ideas. Besides, he was not at all a man of purely theoretical and abstract interests; he was a real man of the world who saw human society and politics through his own eyes with the vivid and direct intuition of genius. Many of his pages still breathe the atmosphere of the Athenian life of his age, and the passions and struggles of the epoch could be reconstructed by the help of his dialogues.*

*The whole political teaching of Plato was under the sway of the terrible experiences of his life. He saw his great master murdered by the stupidity of the so-called Athenian democracy; he witnessed the terrible ravages of the Peloponnesian War, the chronic struggles of the Greek city-states, the almost business-like treachery of its citizens; he observed the growing, menacing danger of the Macedonian imperialism. The political situation of his time was somewhat analogous to the Italian anarchy which, some two thousand years later, exasperated the great soul of Machiavelli. But in spite of this remarkable analogy, which is even more accentuated by the fact that both Plato and Machiavelli sought eagerly for a powerful prince or tyrant who could realize their political ideas, Plato had nothing in common with the powerful vision of Machiavelli, who saw the unique remedy of his people in an Italian unity. Plato never left, even in his boundless speculation, the small restricted territory of the Greek city-*

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*state, and the cure suggested by him was not a reorganization of the whole Greek nation (which in reality did not exist); it was rather a moral remolding of the people on the basis of a strictly and vigorously communistic state.*

*Plato not only shared the belief of Socrates that virtue can be taught, but he was equally convinced, like the Bolsheviki of our day, that such an education must be, above all, the work of the state which by its laws and an appropriate form of government could create—in the long run—quite a new and unprecedented type of human nature. I make this comparison with the Bolsheviki experiments of our day advisedly because the ideal state of Plato and that of the Russian Communists have many elements in common: both hate commerce and money economy; both regard private property as the sole source of all evil; both would eliminate wealth and poverty; both favor a collective education of the children, exempted from paternal care; both regard art and literature only as a means of state education; both would control all science and ideology in the interest of the state; both have a rigid central dogma, a kind of state religion to which all individual and social activity must be subordinated. And if one would object that this analogy is unjustified regarding the spiritual idealism of Plato and the matter-of-fact materialism and violence of the Communist, I would answer that Plato had no doubt whatever that his scheme would have been capable of realization only under the protection and violence of armed force; that is the reason why his political vision of the ideal state was intimately connected with the expectation of a tyrant—a type of philosophical superman—who would give body to his idea. This analogy goes even further; we find the Verelendungstheorie (the inevitable growing misery of the masses) of the German*

## PLATO: INTRODUCTION

*Marxists already in nucleus in the anti-wealth argumentation of Plato, and even the Tcheka organization of the present Bolsheviki has a powerful support in those passages where the necessity of a rigorous moral police is emphasized. Just as the actual rulers of Russia escaped from the terrible rigidity of their intolerant system by adopting the intermediary policy of the Nep, so Plato arrived at the diluted conception of the Laws as the second best constitution or transitory stage to the final realization of the supreme aim.*

*Plato was even more Bolshevik than the Bolsheviks of our time. He drew final consequences of his communistic scheme with an appalling audacity; he destroyed completely the family and made love a simple state instrument for the procreation of the fittest. The maddest dreams of those eugenists who shout for the aid of the police for the realization of the superman are surpassed by the untrembling vision of this dreadful reformer. But the vision of Plato is so terrifying and so absurd to our modern conception of individuality only in its means of realization. In the ultimate aim his ideal is the emanation of a powerful moral intuition and of a keenly penetrating view into the foundation of human society. He saw more clearly than perhaps any other political thinker the immense importance of sexual selection, which is at present unduly overshadowed by the economic motive; he realized with the utmost distinctness the central significance of the population problem and he scrutinized more deeply the real root of war than most of our pacifists, emphasizing that not misery but luxury is the mother of war.*

*As to his ultimate ideal of the state and its final justification, his speculation will always remain a model of an ethical teleology. The modern construction of an antagonism between the individual and the state cannot exist in the thought of*



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*Plato, for he regards the state as the realization of the idea of Good through Justice, which means the same both for the individual and for the state—a due sphere of activity both for the individuals and for the classes corresponding to their relative knowledge and moral significance.*

*This conception of the state as an educational institution for the common good is still the foundation of all political endeavor which stands intentionally above the petty matter-of-fact compromises of the struggling class and group interests. Plato's thought is only antiquated in so far as he regarded the city-state, slavery, and the differences among the classes as something definitely established by the system of ideas which we would call today the Law of Nature.*

*And in this connection it is at the same time an encouraging and a distressing spectacle to see how free and how restricted human genius is from a certain point of view. Here we may regard a man who anticipated modern communism, feminism, eugenics, and the social policy of the state by more than two thousand years. On the other hand, this mighty spirit is the prisoner of his ideal state of 5,040 citizens. This seems to indicate that the best in political thought will always remain a mixture of truly creative imagination and of a reflex of contemporary experiences.*

## THE STATE

WHAT is justice?

To give every man his own, it is commonly said. Verily, justice is not of much consequence if it consists merely in giving an owner what belongs to him. A musician is able to play the lyre, a merchant is able to do business with money. To confirm the owner in the possession of money or lyre so long as he has a use for it, would that be the art of being just? Is that Virtue *par excellence*?

And is it, then, always just to give the owner his own? A friend gives me his weapon to take care of. One fine day he comes and, in a mood of frantic madness, demands it. Would it be just to give it to him to his own hurt? Certainly not; it cannot be just to hurt a friend. But what about an enemy? It may be said: yes, to the friend, the good man, good; to the enemy, the bad man, evil; to each what he deserves—that is the meaning of justice. To the friend, good, to the foe, evil! As if one knew who is really friend, who foe! Can it be just to do evil to anyone at all? The just man is a good man; it is not for the good man to do evil. As horses that are ill-treated do not thereby become better in their nature, neither do men become more humane by inflicting punishment upon them. Music creates a love for that which is musical; kindness improves man's nature. Under no circumstances is it just to do evil to anyone.

There are those who say: "Law is that which benefits rulers. Whoever governs a nation—whether tyrant,

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prince, or people—that which is advantageous to the rulers will become the law for the governed. If the governed obey the law, and, for the benefit of the rulers, do what is to their own injury, they are called just. But if they oppose the interests of the rulers, they are punished as criminals. The simple just man serves another's happiness, but the unjust forges his own fortune. So one needs only to be master in wrong-doing. Punishment and shame are visited upon petty thieves, but he who enslaves one-half of all his fellow-citizens will be honored as a blessed prince favored of God. Justice is servile weakness. Injustice, exercised wisely on a large scale, makes the ruler. Man inveighs against injustice not because of abhorrence of wrong-doing, but because of fear of unjust suffering."

Against this opinion, however plausible it may sound, our sense of justice rebels. The purpose of government, the essence of statecraft, cannot consist in benefiting the rulers and injuring the governed. A physician may, through service, earn money, but the acquisition of money is not the purpose and essence of his art; it is rather to heal the sick. A pilot's vocation may improve his health, but the purpose and essence of his art is not to improve health, but to steer a true course. Moreover, the physician commands the sick; the pilot, the passengers—who obey for their own good. And government should, in like manner, promote the welfare of the governed. If to govern were in itself a benefit to rulers, public officials would not demand a salary. The best men—those lured neither by reward nor by honor—take upon themselves the burdens of government solely out of regard for country, so that the leadership of the fatherland may not de-

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volve upon the baser elements. Neither is it true that justice is folly and successful injustice wisdom. The man who is wholly unjust would take advantage of everybody—even of his equals—but he soon succumbs. A wise man will not take advantage of those who are his equals. It is not true that one becomes powerful through complete injustice. No army bent upon conquering, no band set out to plunder, can succeed in its undertakings if its members are untrue to one another. Even their wickedness will fail unless a remnant of justice remains among them. Injustice breeds hate, discord, unfits for mutual dealing, makes enemies of everybody. Power, either of an individual or of a state, wrongly attained, can be maintained only through justice.

But it may be urged, it is not necessary to be just, but rather to appear to be just. The perfect master of injustice is he who knows how to appear as a just man. He enjoys the fruits of injustice—power and riches; and at the same time the rewards of justice—honor and friendship. With rich offerings he also wins the priests and the gods. It is, however, difficult to do wrong and yet appear to be just; but to practice justice is still more difficult. In and of itself, justice is not a good, not a joy loved for its own sake; it is an evil in which mankind reluctantly acquiesces out of sheer necessity. What a blessing—to be freely permitted to do wrong! What an evil—to be compelled to suffer injustice! The pain of suffering injustice outweighs the pleasure of wrong-doing. For this reason men have united upon a mean, determined by laws and compacts, which they call justice. In other words, justice is a mean between the best—which permits one to do injustice with impunity, and the worst—which compels one

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to suffer injustice. But one who himself is strong enough to do injustice and to ward off the injustice of others will not be content with the middle course. No one in possession of the magic ring of Gyges would be restrained from committing adultery, robbery, and murder, at will. He would be a fool, and, secretly, everyone would regard him as a fool, even though he might be publicly praised. The weak must be content with justice and praise it; the strong may scorn it and do injustice whenever the occasion presents itself.

Now he who, contrary to this opinion, would speak in behalf of justice should not appeal to external consequences, such as honor, office, and the like; for one may obtain these through the appearance of justice. The advocate of justice must show that, in and of itself, without regard to consequences, it is good because of the happiness it creates within—a happiness which is never attained by the unjust; he must show that the just man is happier in poverty and defeat than is the unjust in riches and honor; that one cannot be happy without justice; that it is, indeed, the highest good. This we will now prove.

But first it will be necessary to establish the nature of justice; and to this end we shall examine it in its larger aspect, namely, in the state, where it appears in a striking form and is more easily recognized than in the soul of an individual. Let us, therefore, in our imagination, create a state and observe when and wherein justice and injustice are manifest.

States originate because the individual is not self-sufficing but needs the help of many. The needs of mankind are manifold, and they may be satisfied much better if many unite in such a manner that one shall take care of

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this need and another of that, than if each cared only for himself. Men have by nature different talents: One is fitted for this occupation, another for that. He who practices but a single art will do his work better than one who is occupied with many. Moreover, there is a time for every task which the man of many occupations often misses. One can accomplish more, do his work better and easier, if given a single task according to his capacity, than if he occupy himself with all kinds of work.

Food, shelter, and clothes are the most important needs. The smallest conceivable state-community, in its most elementary form, would at least require a farmer, a weaver, a builder, and a shoemaker; and it would be an imperfect community if the farmer were compelled to make his own plow and other implements. To fashion these with skill would require smiths, carpenters, and various other artisans; herdsmen are also necessary to provide animals for plowing and driving, and for obtaining products from hides and wool. Through barter the members of such a community share their produce with one another; and this gives rise to markets and money. But much time and energy is lost if one bring his wares to market and find no one who needs to exchange products with him; this situation requires merchants who, permanently at the market, buy and sell wares for money. In a well-ordered state only the weak dedicate themselves to this service because they are not adapted to other kinds of work. There are also tradesmen who carry on an exchange between states, for what state does not need imports from foreign parts? If the trade is overseas, seamen are necessary. Day laborers are also necessary for services requiring physical strength. And now we have a complete

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state, that is, a healthy state, a community of people with a healthy, peaceful mode of life.

But if the people fall into luxurious habits of life and a simple nourishing diet degenerate into a feast, and plain clothing give way to finery and ornaments, and the house become filled with superfluous effects, the state grows into a mass of people who are no longer necessary to its existence: a large number of artisans and traders supplying an enormous quantity of useless articles; cooks, waiting-women, prostitutes, actors, and all kinds of artists; also physicians whose services are often required in such a manner of life. The territory which formerly sufficed to support the inhabitants is now too small, and so a neighboring province is robbed of a part of its soil. Transcending the bounds of necessity, the community is seized with the passion for unmeasured possession—and faces war. Luxury, greed, war!

The healthy state, too, which has such bloated neighbors must be enlarged in order to support an army necessary to defend the community against attack. The fact that one cannot practice many arts at the same time, applies no less to the art of war than to shoemaking. The warrior, too, must devote himself entirely to his art, for a man who holds in his hands a sword and a shield is not yet a warrior. Should the state have less care for the art of war than for the making of shoes? Doubtless the greatest demands are placed upon those men to whose care is intrusted the freedom of the state, not only as regards skill, but also as regards character. Their proper selection is one of the most difficult problems in a state system; their education, the most important concern.

How should the soldiers be constituted that they

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may be fit for their calling? Their bodies must be strong and agile, their minds keen; they must be brave. Wrath may stimulate bravery, but it may create a hero or a beast. At the same time the protectors of the state should also be gentle—fierce to the foe, gentle to citizens and to one another. They should regard it as a disgrace to have enmity for one another or for the rest of the citizens; the friendship of all members of the state should be their deepest solicitude. For that reason they must be true, without sham or insolence toward their own people; they must obey and be able to control themselves, steadfast in every danger, prepared for every hardship; they must be free from the fear of death, shun servility but not death; they must bear with equanimity the loss of a son or a brother; they must be free from covetousness, incorruptible, moderate in the joys of food, drink, and love—else how could they fulfill their duty? Truly, only the lovers of wisdom are worthy of this calling!

That the state may have a growing supply of men worthy to serve as guardians, children should be given an education which develops harmoniously body and soul. But physical exercise should be directed to steel the spirit and courage rather than to increase the strength of the body. A warrior is something more than a gladiator; a sound mind creates a sound body.

Poetry and music are the most important means to education; by virtue of rhythm and harmony they penetrate the mind most easily and affect it most strongly. Just because they exert such a power over the mind, great care should be taken that the arts do nothing to impress harmful conceptions upon the impressionable mind of the child. Poems which represent the Deity as vindictive,



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as the author of evil, or those which describe the terrors of the underworld, or which praise those men as heroes who, driven by greed, spent their lives in a continual quarrel—poems and melodies which tend to make one sensuous and weak, works of art which represent the dissolute and the low—these are to be avoided and prohibited.

The most capable of the guardians should be elected to the command of the army and to the leadership of the state, namely, those who are not only superior in insight and ability to others, but who also evince an unshakable determination to watch over the welfare of the state; those who love the state—that is to say, those who seek their own welfare in the welfare of the state. Their lives must be tested from childhood, as gold in fire, to see whether pleasure or pain would ensnare them, power force them, fear deceive them, and they be led from the course which is best for the state. In childhood, youth, and manhood they should be tried by every danger. Only he who never forgets what is best for the state is worthy of becoming its ruler. Those who are thus selected are properly, and in the best sense of the word, the guardians of the state, as well against foreign enemies as against their own citizens, so that neither the former nor the latter can injure the state. The remaining guardians are their helpers to carry out their orders. The rulers, the soldiers, and the working-people must all be imbued with the feeling that it is only the diversity of an innate condition of nature that assigns to each of them different tasks for the good of all, and that they are none the less equal sons of the state, brothers all.

The first and most important duty of the ruler is to see that in each of the respective ranks there shall be no

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unworthy person, for if there is failure, the state collapses. And as virtue does not always transmit itself, rulers should place their own children who are incapable of guardian duty, without indulgence, in the ranks of the working-people, whereas the gifted son of a peasant or artisan must be elevated to the rank of ruler and guardian.

There would be the greatest danger to a herd if the dogs which are to protect it should themselves become wolves and attack the sheep. The same with the state if the guardians should become masters of the other citizens. The most effective means of guarding against this is a careful selection and a proper training. But the entire mode of life of the guardian must be so ordered as to create a barrier against this greatest of all dangers; for this reason they should not possess property of their own, but should receive a salary from the rest of the citizens suitable to their position as soldiers; they should have their meals in common, both at home and in the field; their dwelling should be so arranged as to give free access to every citizen to observe their mode of life; they should never be permitted to touch gold or silver; only thus will they and the state maintain their integrity. But if they have ownership in land, houses, and money, they will change from protectors to hateful and hated masters of the remaining citizens. This internal enmity will be much more dangerous to the state than any foreign foe, and the state will thereby inevitably go to ruin.

One might reply by saying that under such a mode of life there would be little pleasure even though the guardians hold the entire state within their power; and yet it is not inconceivable that they might feel the greatest pleasure under such conditions. At all events, it is not the purpose

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of the constitution to provide for the happiness of any privileged class, but rather for the happiness of the whole community. If the guardians are to be real guardians, they can have no other happiness; they should be perfect in their own calling, like the peasant or the potter.

Also to the working-men both wealth and poverty are alike ruinous; luxury breeds laziness, want stunts growth; both incite disorder; wealth and poverty are the enemies of the state; the guardians should prevent these enemies from entering. A state in which there are rich and poor thereby ceases to be a community; it becomes two or more separate crowds, hostile to one another.

Neither should a state be enlarged beyond a point compatible with unity; not large, not rich, but, capable and unified by its constitution, it will withstand enemies that are large and rich but degenerate and discordant.

Rulers must always keep in mind one fundamental fact—that is, education. It is the firm foundation upon which a state waxes stronger; but it is necessary to watch incessantly that in gymnastic and musical training no irrelevant innovations are introduced. One cannot change the key in music without affecting the most important laws. One might regard it as a purely delightful change; but gradually a new concept enters the mind that will affect trade and traffic, customs, laws, and the entire constitution.

The fundamental principle of the state is to develop excellent men who can procreate still more excellent descendants; given this principle, these will seek the good in all other things with a clear vision. If one adheres to this fundamental principle, the enormous number of petty statutes, passed in these days, with endless and vain

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attempts to improve them, will be unnecessary. Like sickly libertines who are continually doctoring themselves, daily trying new remedies and new amulets, regarding as an enemy one who frankly tells them that they must change their mode of life,—so are the states today, with their miserable legislation and administration, with their fundamentally bad constitutions kept intact only by fear of the death penalty. A real statesman will have nothing to do with this kind of legislation and administration, whether in a badly-ordered state or in a well-ordered state; in the one it would be needless, in the other, superfluous.

The constitution which we have thus outlined may be properly called good. A person is good if he is wise, brave, thoughtful, and just; the same is true of a state.

Every citizen should be wise, that is, well-informed, in his own calling; but this applies above all to that small number who are at the helm of the state; their knowledge gives wisdom to the state. Bravery befits soldiers; it is their wisdom to know, according to fundamental principles which their education has given them, what to fear and what not to fear, and to stand firm under all circumstances, horrors, and allurements—that is bravery. All citizens should be thoughtful; a person is thoughtful who governs himself; a state is thoughtful if all citizens willingly obey wise rulers.

In what, then, does justice consist?

It is that fundamental principle itself upon which the constitution is based and through which the wisdom, courage, and thoughtfulness of the state is brought about, namely, that each individual fulfills that calling for which by nature he is best fitted, that he does his duty and leaves to others those things to which their natural gifts

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entitle them. If one who is fitted to be a shoemaker or a tinker, because of his wealth or his adherents should arrogate to himself the office of governor, that would be the ruin of the state. If the unfit were to force themselves into the various callings, and in their self-conceit interfere with everything and thus drive out those who are capable, so that each was not in that life-calling for which by nature he is best fitted—that would be the great wrong, the great injustice, since it involves the state.

In the soul (of the individual) there are three estates (how else could they enter into the state?) and they are called: reason, zeal, desire. If reason controls zeal and desire, the individual is wise, brave, and thoughtful—the soul orderly, quiet, harmonious, at peace—healthy. This health of the soul is virtue and justice in the individual; but if these elements are in discord, if zeal overpowers reason and the desires of man drive him irresistibly on—that is, if that part which is not fitted to control obtains, or seeks to obtain, mastery—he will act unreasonably, cowardly, brutally, without discipline; his soul becomes deranged, sick. That is innate injustice. Healthy, beautiful, and strong is the just soul; sickly, weak, and ugly, the unjust. Those acts are just which promote the health of the soul; unjust, those which disturb its harmony as a physical disease disturbs the order of the body.

Is it necessary to discuss further whether it is advantageous to act justly and whether it is injurious to be unjust? Can he whose soul is sick be happy even though no one knows of his infirmity?

A good constitution requires the proper regulation of the relation between the sexes and of birth control.

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Much, perhaps all, depends upon that. A state which accepts our projected constitution can and will realize the saying that "Among friends all things are common," even wives and children. Whether this would be possible and for the best let us examine very thoroughly and honestly; for murder is not so serious a crime as it is to deceive people with regard to what is right and just in this respect. The unusual should not frighten us from our course; nor should the scoff of the wit. Much that was laughed at but recently is today the accepted custom among all the Hellenes—but the Barbarians are still laughing. A man is a fool who ridicules anything but the unreasonable and the bad.

Above all it must be admitted that there is no employment that is peculiarly adapted to a husband as a man or to a wife as a woman. The difference—in that man begets, and woman bears, children—does not apply to those other talents which nature gave to both sexes. Our principle that like natures are to take on similar, and unlike, dissimilar activities, each according to his talent, would admit woman to every occupation, conditioned only by the fact that she is weaker. Therefore women should share with men the services of guardian and warrior. Who would deny that there are warlike women?

From what has been said it follows that the same gymnastic and musical training should be given to women as to men; and there is no doubt that this would redound to the welfare of the state. As our guardians through training would become better men, so would women become more efficient. And what greater blessing for the state than to have its citizens, both men and women alike, as excellent as possible?

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Our women guardians will accordingly share the mode of life of the men who are guardians: common education, common exercise, common meals—soon love will seal its bonds. As the guardians have no land or houses of their own, neither will they bring home wives of their own. But that by no means implies promiscuity, for it would not comport with the aim of our constitution, which is to maintain a most excellent citizenship, to rear a noble race of men. A breeder of birds, dogs, or horses pairs the best during the period of their greatest strength. The highest and most delicate task of the ruler of our state is the ennobling of the human species, but not by a promiscuous intermingling; on the contrary, by arranging holy—for the state, wholesome—nuptial festivals to bring together those from whom the best offspring are to be expected; and to bring this about, as if it were a divine accident, so that no bitterness or discord will arise, is, forsooth, the height of the art of government. The rulers are to determine the number of marriages upon a basis which, taking into account war and disease, shall maintain, so far as possible, a fixed number of citizens, suitable to a well-balanced state. Among other awards, as a prize for the meritorious, will be that of permission to cohabit more frequently, a suitable pretext, so that from this class more children will be begotten for the state than from others. And only during the period of greatest vigor shall one be permitted to beget children—men from thirty to fifty-five years of age, women from twenty to forty.

The children shall belong to all in common. Neither father nor mother shall know his or her own child, for the new-born shall be taken to a nursery and cared for in common by the mothers and nurses. All those who were

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married between the seventh and tenth months before these children were born are their fathers and mothers. All those who were born during the period in which their fathers and mothers cohabited are brothers and sisters. Education will be so directed that not only in name, but also in regard to sentiments of esteem, of care, and of sympathy, all members of the state will be united.

Common joy and common sorrow unite men most firmly and nothing divides them more speedily than when the same thing gives joy to one and grief to another. Therefore they will necessarily be separated by the words "mine" and "not mine," for each individual is only concerned with that property which relates to his own household. But there is no greater evil to the state than that which disrupts it; no greater good than that which unifies it. This good will become a part of that state wherein each sees in everyone else his father or his mother, his brother or his sister, his son or his daughter, and where all are members of "his family." He can then say of every individual, "It is well with my own," or, "It is ill with my own." Thus they share with one another generally the joys and sorrows of life. As a wound in the little finger pains the entire body, so the entire state—as a body—senses the pleasures and pain of every individual. No legal processes concerning mine and thine, no concern about the daily pursuits, no care concerning the education of children, no cringing of the poor before the rich. Verily the fortune of our propertyless guardians is not so mean as it might appear. In other states there are masters and servants; here, protectors and supporters. Real peace reigns in this state, and if an enemy ventures to attack it, there are brothers, fathers, and sons, even



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women, mothers, and sisters, who will fight shoulder to shoulder invincibly.

How could the states of today be led over into such a constitution as we have designed as a model? A single change which, though not simple, is by no means impossible could bring about this transformation: if the philosophers should become kings, or kings become philosophers; or if political power and love of wisdom should be united. But as long as politics and philosophy are separated from each other as far as they are today, there is no end of evil.

"What!" cry the politicians of today, "trust the guidance of the state to the philosophers, to these sophisticated persons who are unfit for every practical activity?" They laugh at the presumption, and the public laughs with them.

Nor is it surprising that such an opinion should be entertained concerning philosophers. It is conceivable that the noblest work of life may be held in low esteem among persons who pursue life's aim in precisely the opposite direction. And the politicians are right in so far as their conception of statecraft is not suited to philosophers; nor do they concern themselves with it. But the majority of alleged philosophers are also responsible for the bad repute into which philosophy has fallen.

Who is a philosopher in the true sense of the word? Philosophy is love for wisdom; love is complete self-sacrifice; wisdom means to know, to have knowledge of what is true. The true is the real essence, the permanent in the changing phenomena. Some love beautiful women, beautiful colors, beautiful melodies; to know beauty itself, the nature of beauty in all its forms, is the love, the longing of the philosophically minded. So, too, the philosopher

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will perceive the nature of good and of justice and will comprehend the nature of the state and its laws in the manifold statutes and regulations. Only such a knowledge is true legal and political science. He who does not carry the idea of justice in his own soul, gropes as a blind man in the maze of many laws. In other words, he who loves the truth and hates a lie is without guile; since all his desires are turned toward the goal of knowledge, he avoids the sensuous. Seeing the whole and the eternal, he is free from all pettiness, avarice, vanity, envy, hatefulness. He is free from the fear of death; his own life does not bulk large; he is generous, friendly, agreeable, just. Loving the beautiful, he loves moderation. Desire of knowledge, strength of memory, love of truth, bravery, thoughtfulness, gentleness, and justice are the characteristics of the youth by nature philosophically endowed. When qualified by training and age, will he not become an excellent statesman? Are not such characters the only ones to whom the guidance of the state should be intrusted?

Obviously, such natural endowments are rare; and the few thus gifted are, under the present conditions of the state, threatened with so many dangers that we may thank a special divine providence if, indeed, a single individual can be saved.

The nobler a plant or an animal is, the greater the need of a suitable soil, of a proper nourishment; and if this fails it is more likely to succumb than an ordinary creature. And so these highly endowed natures will generally be spoiled by bad education and they will become arch criminals. A weak nature can never produce anything great, either good or bad.

But the most corrupting educator is public opinion,—

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the judgment of the masses concerning the beautiful and the good, their praise and censure, as it is thunderingly manifested in the theater and in popular assemblies—who can withstand its overpowering effect, to say nothing of overcoming it? To this great sophist, Public Opinion, are united those small ones who praise the folly of the masses as wisdom and teach it for money. The good counsels of relatives and friends who are like minded complete the corruption. And if the gifted youth is also rich, beautiful, and strong, so much the more speedy his ruin. All the faculties which go to make up a philosophic nature will work in the wrong direction and such youths will develop into the men who will bring the greatest grief to the individual and to the state. Instead of the greatest benefactors, they will be the greatest evil-doers.

Diminishingly small is the number of those who, according to the measure of their natural endowment, dedicate themselves to philosophy and remain true to it. They see the mad pursuit of the crowd, they see, too, that in public affairs not a single individual knows how to create anything wholesome, but they also see that they can find no confederates with whom they can unite for the protection of the good and the just—it would be a useless attempt in which they themselves would come to grief. They feel as one feels among wild animals; they withdraw from society and limit themselves to the task of completing their own lives without injustice, without developing themselves completely and without being able to accomplish great things for humanity, for which they would have been fitted in a more worthy community life. In the states of today there is no one who measures up to the requisites of the philosophic nature; this nature loses its peculiar

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strength as foreign seed in a strange soil. But many petty souls throng to philosophy for the sake of appearance and beget ideas with crippled thoughts, thus bringing philosophy into disrepute. No wonder that so many are unwilling to believe that philosophers are the chosen rulers of the state, for they have never seen a real philosopher.

No state, not a single individual within a state, can develop completely unless through a happy chance the few real philosophers undertake the guidance of the state, and unless the state submit to them; or unless kings and kings' sons, through divine inspiration, become animated with a genuine love of wisdom. Either is possible. The masses will permit themselves to be taught better things, and when they have recognized what philosophy is and who the philosopher is, they will concede that only those can erect the kingdom of justice who have first established it in their own hearts, and they will then voluntarily submit to their guidance. Also, in the course of endless time it may come to pass that there will be princes who are philosophically endowed, who, in spite of their power, will not succumb to moral ruin. If such a possibility should arise, philosopher-rulers or ruler-philosophers will erect no other kind of a constitution than the one we have described.

To state it directly, the essential of our constitution is that its "guardians" shall be philosophers.

If a philosopher is produced under present conditions it is because he has actually developed by virtue of his own strength and in spite of the state system. But in our state the most capable youths and maidens will be selected to be educated in philosophy. They will be granted a higher philosophical training, beyond the general gymnastic and musical education; later they will be

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employed in practical activities in the army and in various offices for many years, say, until fifty years of age, in order to give them the necessary experience and at the same time to test them. But philosophers will not be permitted simply to withdraw to their heights and give themselves up entirely to a contemplation of the good. It will be their duty to descend occasionally into the valley of reality, to busy themselves with the conduct of the state in order to gradually fashion the life of all in conformity with the idea of the beautiful and the good; for our state does not merely concern itself with the happiness of philosophers, but with the welfare of all. And then, too, the fact that only those shall be called to rule who have the maturest judgment concerning the fundamental principles of a good state constitution and who are not at all eager to govern, but regard it rather as a duty which draws them from a more noble activity, will guarantee the best administration and the internal peace of our state. Where the eager and the greedy contest for offices, there is no end of war between competitors, between the governing and the governed. Aristocracy is government by the best, in the true sense of the word, whether the office of ruler be exercised by a single individual who is best or by a number of persons of kingly quality.

If today a philosopher or a number of philosophers should succeed to the rule of any state, and wished to reform it in accordance with the idea of justice, they would need to take the children into custody, separate them from the adults, give them an entirely new viewpoint, and train them according to their own principles of justice; only thus would it be possible to enact a perfect constitution, with community of women, children, and property.

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Would such an aristocratic constitution, once established, endure forever?

If only the secret of fecundity and heredity could be completely revealed to the knowledge of our guardians that they might with certainty determine in advance from whose begetting a noble offspring would arise! But as long as the peculiar shift and change of ennoblement and degeneration of races is not understood, it may be expected that, in spite of every precaution, sometime a less worthy race will appear in which even the best are not adapted to the office of guardian. Attention to training will then be neglected and thereby the foundation of the state will be shaken; discord will then arise between the better and the baser classes; and as soon as the rulers of a state are in discord, the fall of government is imminent. Our aristocracy will then gradually become transformed into constitutions such as exist today.

Of these there are four special kinds (the others are variations of these): timocracy, oligarchy, democracy, and tyranny. As the aristocratic constitution is like the soul of an honest man, each of the other constitutions likewise corresponds to a different type of character. Whence came the different kinds of constitutions if not from the different types of men?

If we mentally pursue further the course of life of our ideal state from the time in which, in consequence of a deterioration of posterity, it takes a downward course, the other kinds of constitutions will become manifest.

The abolition of common ownership and the inauguration of private property is the first step in the downward course of our state. If the guardians are not rich in goodness of soul, they will yearn for other kinds of riches.

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They will divide the land among themselves, appropriate it, and debase to serfs and to slaves those members of society who before stood under their sovereignty as free men and as their friends and supporters. The guardians will concern themselves with governing and conducting war, not for the welfare and protection of their subjects, but to satisfy their avarice and to feather their own nests with stolen plunder. Training will be primarily military exercise. Military glory, bravery, and cunning will be the highest virtues; military glory, the highest honor. Military ambition is the essential characteristic of this constitution which for that reason we call timocratic. Such, for example, is the Lacedæmonian state. Avaricious, imperious, ambitious, militant, harsh toward subordinates, courteous toward associates, submissive toward superiors—such is the character of the timocratic person. Reason does not govern his soul; it is ruled by the envious, wrathful part of the mind which strives for power, victory, and fame. The timocratic state is never ruled by philosophers, but by warriors.

The ambitious youth who cares little for money will, with increasing age, become a miser. The timocratic constitution will transform itself gradually into an oligarchy in which the rich will rule and the poor be excluded from government.

Its own opulence will destroy the timocratic state, for as no one wishes to be inferior to another, all will pursue wealth. And the more one gives himself up to the acquisition of wealth the less virtue will he have. Riches and virtue are precisely as the two scales of a balance: if one rules, the other fails. Where wealth or the rich are honored, virtue or good will be held in low esteem. But

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that which is at the time held in high esteem will be cultivated, while that which is not esteemed will be disregarded. Thus men who are eager for fame will admire the rich and disregard the poor.

It will become a rule that only he who possesses a certain amount of property can take part in government. The more oligarchic the constitution, the larger will this amount become. It requires no explanation to understand how perverted is the principle of an oligarchic constitution. Who would select a pilot of a ship on the basis of property rather than ability and knowledge? It would become a dangerous voyage! An oligarchic constitution must be inaugurated and maintained with force of arms and with terror. Such a state is not unified, but consists of two parts which continually clash with each other. An oligarchy is inefficient in war, for the rich will fear to arm the masses and, because of avarice, they will not wish to furnish the necessary financial means. But the greatest evil of this kind of a constitution is the right of the owner to freely dispose of his property. Some will become very rich but the masses will succumb. Among the rich, as among the poor, there will be many drones, drunkards, and parasites; also stinging drones, scoundrels on a large and small scale.

In the soul of the oligarch reason and courage are slaves to avarice. His thought, ambition, and zeal are directed only toward money, his avarice suppresses all other desires. Because of business, he is concerned about his reputation; anxiety concerning his property keeps him from wrongdoing, but whenever he has an opportunity to exploit the defenseless he becomes a rogue. From real virtue and harmony his distracted soul is far removed.



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Insatiable greed brings oligarchy to a fall. A well-ordered life is irreconcilable with a chase after riches; a dissolute mode of life sets in which the rulers do not attempt to restrain, for it is best suited to their rapacity. They have no thought of limiting the free disposal of property, for their aim is to possess everything themselves. They drive, yea, thrust those who are still well-to-do into poverty. Wealth accumulates in the hands of the few; the large number of poor become poorer; the number of those plundered gradually increases and in their souls grows hate, and finally they come to think that those weaklings have only the cowardice of the poor to thank for their riches and their power. A slight occasion kindles a revolution. If the poor conquer, some of their opponents will be executed, others exiled; equality and liberty will be proclaimed; democracy arises.

Now all will have an equal right to take part in the administration of the state. The magistrates will, for the most part, be selected by lot. No one will ask, What has this man accomplished who now takes up the affairs of state?—he will only need to give assurance that he is for the people. The dominant idea of our good state, that—aside from unusual talents—no one will become noble-minded who has not from childhood been directed toward the noble and strives for it in everything he does, will find little acceptance here. Nor is anyone urged to accept office, however well qualified he may be. Freedom is enjoyed in full measure. The magistrates and their commands, the statutes, are disregarded. Everyone does what he wishes, lives as he wishes. There are the most diverse modes of life, customs, and institutions in gaudy array in this beautiful constitution—as a gay-colored gar-

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ment, pleasing to women and children. An overweening youth who gives himself unrestrainedly, now to this, now to that, desire; who now takes up business, then wants to play statesman, now wishes to go to war, and then, recumbent upon the bear skin, wishes to philosophize—such a life, without order, standard, or duty, he calls free and happy; and many will admire such a youth and regard him as an adept in the “fine art of living”—this is the character of the democratic state. Then, too, one hears at every turn of “liberty” and “equality.” Liberty they call that license which pervades all the relations of the sexes, of children to parents, pupils to teachers, youth to old age—thus all reverence is lost. The soul of the citizen becomes so sensitive that it cannot bear the slightest restraint—until the excess of freedom strikes in the opposite direction. Then, out of democracy arises tyranny.

In a democracy the working-people decide issues at the elections. Because of their concern about daily bread, however, they have little time for the affairs of state. The rich, too, pursue their business and their pleasure, and the administration of the state attracts a third class which we met with in the oligarchy and which we called drones. Now in the state of “liberty” they develop perfectly; in the oligarchic state they were without honor; in the democratic state they become rulers. The stinging drones are the leaders; they have the ear of the multitude; the stingless drones are their followers who permit no adverse expression of opinion. The only concern of these is to use the rich as a drone pasture: to rob them of their possessions, distribute a part of their spoils among the masses, but keep most for themselves. They accuse the rich of being oligarchic, enemies of popular government, bent

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upon destruction, and indict them for high treason. The rich stand upon their defense, and those who before had not been opponents of popular government now become so through unjust persecution.

It is the way of people to select from among their leaders one in preference to all others, and to foster and extol him. Now when such a one has incited the servile masses against the propertied classes with promises of land distribution and remission of debts, and does not hesitate to permit his countrymen to be killed; he is destined to become a tyrant. Having once tasted human blood, he becomes a wolf.

He asks for a bodyguard against attacks from the enemies of the country. His opponents are executed, exiled, or they escape. Having rid himself of the adversary, he is the complete tyrant.

At first he is mild, promises much, distributes land—for the most part to his adherents—and grants an alleviation of debts. But as this is not likely to achieve internal peace, he plans a war so that the people will need him as one of their leaders, in order that, immersed in the exigencies of war, nothing will shake his authority, and that he may send those who suspect him into the field and thus “cleanse” the state of its magnanimous, intelligent, liberty-loving men. The people, since he gives them no peace, hate him more and more; the need of a bodyguard becomes so much the greater. From foreign countries drones fly to him in swarms—if the purse holds out. He frees the slaves; they become his most devoted followers; to maintain the army, he confiscates property, plunders temples, and ever increases the tax burdens of the country. The nation has begotten a monster, and reared it large, a

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vampire which sucks its blood. It was unwilling to endure the government of free men; now it is enslaved by slaves. A wretched constitution!

And as the state, thus the tyrant himself. But external pomp does not deceive; the soul of the tyrant is driven by insatiable desires, plagued by ceaseless anguish. He does not venture from home; he is a prisoner. Myrmidons, parasites, rogues, are his "friends"; he fears them; he flatters them. The cruel master cringes before his slaves. Voracious, anxious, tortured by remorse; unfree, a cringer. Wholly unjust, wholly unhappy.

## CHAPTER II

### ARISTOTLE (384-322 B.C.)

#### INTRODUCTION

*ARISTOTLE* was born in Stagira, a city of Thrace. His father was the house physician of the Macedonian king and there is evidence to indicate that physicians were quite common in the ancestral line of Aristotle. As a youth of eighteen he became a pupil of Plato and remained so until the latter's death. Thereafter he was attached to the court of a small prince in Asia Minor, and three years later he undertook the education of the crown prince of Macedonia, the future Emperor Alexander. When his pupil occupied the throne he did not follow him, but returned to Athens, where he founded, in the Lyceum, a school of philosophy called the Peripatetics, a name derived from the custom of walking about while giving instruction. After an activity of more than a decade he was obliged to leave Athens, for, after Alexander's death, the anti-Macedonian party accused him of attacking the religion of the people. In order to avoid the fate of Socrates he fled to Chalcis, where he soon died a natural death. There is, however, a legend to the effect that his death was not a natural one, but that he committed suicide in desperation over not being able to solve the problem of the tides; and while the tradition itself is without foundation, it demonstrates how his contemporaries had



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*already acknowledged the restless passion for truth in this great man.*

*His fundamental work on Politics came to us only in fragments and in a very distorted form and was made still more obscure by many unhappy interpolations of his mediæval commentators. In spite of the torso-like character of his masterpiece, and its contradictions and obscurities, Aristotle became the philosophic Bible of the Middle Ages and influenced modern human culture more profoundly than perhaps any other thinker of antiquity.*

*According to the opinions of competent critics Aristotle has three claims to immortality: he is the founder of Logic, of Political Science, and of the System of Scholastics. The first two claims are surely well founded, but the last one (which is rather a reproach), made by the great eccentric, solitary genius, Eugene Dühring, seems to me without foundation. He was only founder of the Scholastics in the sense that his dogmatic followers were incapable of continuing his elaborate researches and accepted them as the last word of truth. As to his claim as founder of Logic, Kant himself remarked in a passage that, since Aristotle, this science has not made any substantial progress or regress. Still more generally accepted is his glory in creating the modern science of politics, because he was the first man in the world's literature who applied a deeply inductive (one might say, experimental) method to the diverse phenomena of the state. He analyzed more than one hundred and fifty constitutions of his time and he evinced a penetrating gift of observation. From a broader theoretical and synthetic point of view, however, he never reached the brilliant universality and the deep intuitive insight of Plato. Compared with his great master, his thought remained always fragmentary and somewhat vacillating.*



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*This antagonism between Plato and Aristotle seems to have been already perceived by their contemporaries, for the Lyceum was regarded as somewhat antagonistic to the classical, aristocratic traditions of the Academy. Aristotle belonged to the middle class not only by his birth, but also in his political and even moral speculation. The best constitution, according to his view, was a rule of the middle classes and true virtue consisted in the golden mean. One may say without exaggeration that his chief theoretical endeavors were to correct the extravagances of Plato and to put them on the track of good common sense. Naturally when I speak of his predilection toward the middle classes I do not employ the term in a modern sense, because Aristotle is not less aristocratic than Plato and he also envisages political life exclusively from the point of view of the small free minority who enjoyed the full rights of citizenship. But Aristotle, in opposing the communistic view of Plato, would have a certain middle class rule by eliminating both the extremely rich and the extremely poor strata of the free community. For the politics of Aristotle it is not less an axiom than for the speculation of Plato, that the occupation of the workman is incompatible with free life and therefore with the exercise of public functions and rights. In spite of this, Aristotle acknowledges a possibility of change in this situation. His restriction is made in a very academic and Utopian manner, but it is very significant in Greek political thought and is very often quoted by European socialists in order to demonstrate that even Aristotle, the "political theorist of the slave-economy," acknowledged the possibility of an entire emancipation of the working classes, saying, "If the shuttles would weave by themselves and if the lute mallet would beat the lute by itself, then of course the masters would need no help and the*

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lords no slaves." In this manner the genius of Aristotle would have predicted the emancipation of the proletarian class through the assistance of technical discoveries.

It has sometimes been asserted that the chief difference between the politics of Plato and of Aristotle consisted in the perspective from which the two great masters regarded human society; Plato was portrayed as a deductive idealist and ethical visionary, while Aristotle was pictured as an inductive natural scientist, a kind of modern monist à la Hæckel. There can be no doubt that Aristotle used the inductive method to a far larger extent than did Plato, but in spite of this the alleged antithesis seems to me to be unwarranted because one of the chief merits of Aristotelian thought consists in the fact that it reconciles in a harmonious manner the naturalist, the causal point of view, with the moral, teleologic point of view. The old controversy which exists even in our own day, in the minds of many confused thinkers, has no justification at all in the theory of Aristotle. To the old problem, whether human society exists by nature or by law, the founder of political science replied very clearly that it is based equally on both; it is based on nature because it originated through necessity; it is based on law because the freedom of will gives to men a sufficient sphere of activity to choose their own means for attaining the ethical ideal of the state, which in the theory of Aristotle, is no less a Good Life based on Justice than in the philosophy of Plato.

His ethical insight is even more comprehensive than that of Plato. There are passages which seem to indicate that Aristotle grasped very clearly the problem of international morality when he admonishes his pupils that the subjugation of foreign nations must have disastrous consequences from the point of view of national morality itself. It is, in fact, quite natural to suppose that the citizens of a state would employ the same

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*method toward one another that they see practiced in daily life against a subjugated foreign commonwealth. By this remark Aristotle may be regarded as the first to condemn an imperialistic policy.*

*However, not only in the ethical field, but also in the proper realm of political investigation, the work of Aristotle abounds in the most original observations and suggestions, in some of which he strikingly anticipated many theories and analyses of later and of present-day political science. Interesting parallels at once suggest themselves. The Prince of Machiavelli is completely and admirably modeled after the Tyrant of Aristotle whose description is so keen and full of life that it reminds us of some of the present despots in central Europe. He not only clearly visualizes the race factor as a basis for political domination, but the doctrine of our modern supporters of race inequality finds encouragement in his argumentation. It even seems that he fully recognized the essence and importance of national unity, when he said that the power of the Greek people would be irresistible if they could unite in the same commonwealth. The fundamental distinction of Mr. Oppenheimer concerning the economic and the political means (labor and brigandage) in satisfying human needs is already perfectly clear in the thought of Aristotle. The elaborate researches of Mr. Durkheim concerning the normal and the pathologic in human society have their model speculation in the Aristotelian distinction between good and corrupt government. Mr. Loria's theory that the division of the upper classes has been the main source of the progress toward democracy was completely realized and explained by the Stagirite. The doctrine of our Pluralists was clearly foreshadowed by Aristotle; he was even more clear than they on a very important point in which he completely anticipates the vigorous assertion of Anton*

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*Menger that sovereignty depends in the last analysis on the army; in any irreconcilable dispute it is the army which determines who is really sovereign in a state. In his analysis of the sham constitutions he is no less eager than some of our modern socialists, and his keen observations, that the struggle between constitutions based on diverse principles is inevitable, seem to me not yet fully perceived and utilized by our present political scientists. Even the recent analysis of Mr. Lippmann, in The Phantom Public, claiming the technical incapacity of democracy to solve all questions in which special expertness is involved, is admirably visualized by the Greek philosopher, and his solution seems to me to be nearer to the truth than the answer given by the New York editor, when Aristotle says that the common man who does not know anything about house-building is still fully authorized to criticize the work of the architect as to whether the house is well or badly built and that the helmsman is also justified in judging the ship's carpenter as to whether the rudder is worth while.*

*Generally speaking, the intuitive and practical insight of Aristotle into human nature and into the social aspects of constitutions is unrivaled; and what is really good and fertile in the method of the economic interpretation of history must acknowledge him as its father. His speculation in this direction becomes sometimes even too bold, as, for example, when he undertakes the explanation of certain social types by the chief food which they eat. His analysis of revolutions has a special claim to appreciation, and his formula that revolution is, in its deepest root, the sentiment of thwarted justice is remarkably acute and shows the shallowness of some of our modern theories.*

*His good common sense and golden mean led him to a thoroughgoing refutation of the Platonic communism, which may be regarded as the most complete disproof ever made of all*

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*kinds of mechanical socialism. His admonition that not suppression but reform of private property is necessary, and that not only property but also passions should be regulated, is still valid in all our modern disputes. We may even assert that Aristotle's attack upon Platonic communism would be still more pertinent if directed against present-day Russian experiments, for the difficulties of communism in the small city-state based on slavery would have been far less than in the present imperialistic states numbering millions in population, and based on free labor. No less interesting is his criticism of the feminist movement when he demonstrates with great force the dangers of a corrupt women's rule. He remains, however, completely a disciple of Plato in laying due stress on the population problem and favoring a radical birth control. In opposition to the rather monistic and absolutistic theory of state of his great political antagonist, he accentuates very much the relativity of all political measures and he may be considered as a true Realpolitiker in the German sense. The actual problems of the Greek city-states limit his political thought no less than they limit the political speculations of Plato. He undertook the investigation of more than one hundred and fifty city constitutions, but he found it not sufficiently important—as far as we can judge from his works transmitted to us—to analyze that Macedonian imperialistic state which, compared with the decadent constitution of the Greek polity, represented a higher and more significant kind of political organization.*

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**W**HEREVER a number of persons are associated, there must of necessity be the rulers and the ruled. Nature designates man's place at birth, appointing one as ruler and another to be ruled. To one is given understanding and intelligence—he is appointed to rule; to another is given bodily strength to carry out commands—a born slave. As husband and wife are dependent upon each other to propagate the species, so must there be both master and servant natures to support and develop life.

In the family, which is the original association, the husband rules over wife, children, and slaves. The family expands into the village community, composed of many families having a common origin and ruled by the eldest. Several village communities unite to form a state.

The state is a society which in itself is sufficient to fully develop human life. Self-sufficiency is perfection. The state is the end toward which primitive society strives. Man is a political being, destined by nature for state life. The individual is not sufficient unto himself. He who cannot live in common with others, or does not need others, is either higher or lower than a human being; he is either an animal or a god. Deeply implanted in the human breast is an instinct to live in society.

The rule over a state is different from that of a master over his slaves. The slave is an animated tool, necessary because the loom does not weave of itself nor the lyre itself create its own music. Nor is there anything remarkable

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about employing a slave as a slave. Political dominion is the rule over one's own class, over free persons; to lead them to a common good is the noblest work.

A state may be ruled by one, by a few, or by many. Kingdom, aristocracy, and polity we call these various forms, if they are governed for the common good. If they degenerate and are governed only for the benefit of those who govern, they are called tyranny, oligarchy, and democracy.

The regal is the oldest form of government. Its prototype is the rule of a father over his children. The families and the village communities from which the states were formed were originally governed by the patriarchs and the oldest in the same manner that kings govern. For that reason we say that the gods are under a kingly government and Zeus is called the father of gods and of men. For man created the form and life of gods in his own image. Mature reflection and love are the fundamentals of paternal rule and likewise of regal. They must rest upon the personal superiority of the king. He who excels others in natural endowments is called to kingship. If an entire race excels, it is a kingly race. The kings of the heroic age were benefactors of the people: they established the state, conquered the territory, delivered the people from bondage, and invented the arts of peace—deeds which can be accomplished only through virtue and strength. Their life proclaimed their worth, in consequence of which the people voluntarily selected them to rule; yes, even their descendants were chosen as heirs of the kingly honor in the hope that as mankind begets man, animals the animal, so the noble will only beget the noble—which is not always the case. Kingship arises out of the free will of the

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governed and rests upon their consent. The moment a people no longer desire a ruler, kingship ends. A tyrant will of course assert himself contrary to the will of the people.

Unlike the heroic kingship is the monarchy of the barbaric nations of Asia, who are servile-minded and tolerate a rule as despotic as that of a master over a slave. Since it rests upon law and custom, it is distinguished from tyranny in having greater stability.

The kings of the heroic age had supreme command in war, judged disputes, administered the domestic and foreign affairs of the community, and sometimes offered sacrifices. But their authority gradually decreased. In Sparta kingship was an hereditary office of commander-in-chief, for life: the kings of Sparta had power only during war, since they commanded the army and exercised martial law, over life and death, in the field.

There are also absolute rulers whom the people elect for a short time during periods of great danger. They are called dictators.

The power of a monarch may also be legally limited or unlimited, prolonged for life or hereditary. It is regal in the full sense of the term if the king rules over all, does everything according to his own will, but holds his rule with the consent of the people.

Tyranny, on the other hand, is an absolute rule which one exercises over his equals and superiors entirely to his own advantage and not for the good of the governed. It is an enforced rule, established through intrigue and power and not by the free consent of the subjects, for under free action no free man will tolerate such a government.

At present there are no new kingdoms being created.



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There are many equals, but none is so excellent that the people would voluntarily subject themselves to him.

Where there are a number of equally excellent men, and these rule in common, they constitute an aristocracy—a government of the best, for the good of all: it is the rule of the spiritual and moral who excel in virtue and education, who are capable of leading the whole people to a happy, virtuous, beautiful life; it is the rule of the elect.

If, however, in a state this rule of the best is not completely realized, but yet account is taken of efficiency, virtue, and innate values, this then is a constitution of an aristocratic strain in part differently fashioned.

An oligarchy is a rule of the rich for their own advantage. The essential of an oligarchic constitution is not that a minority rule, but that the rich rule, although it is everywhere admitted that there are few rich and many poor. Only one who has property and pays high taxes has political rights under such a constitution; the great mass of poor people—that is, the majority—have none.

There are different degrees of oligarchy. If the census is still moderate, the great majority of those endowed with political rights do not have sufficient means to dedicate themselves, care free, to the affairs of state; magistrates will be elected who will be required to govern according to law. The greater the property requirements, the smaller the number of rulers, the greater their power and their thirst for power and usurpation. Government offices will become hereditary and there will arise one form of tyranny similar to a dynastic rule; government will be arbitrary and not according to law.

Polity is a constitution where the mass of people themselves administer the state for the common good; where the

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masses are so efficient that they know how to rule and obey, to enact laws, and know how to fill offices from the ranks of the rich and the poor according to merit.

Democracy is the rule of the poor for the benefit of the poor. As virtue is the mark of aristocracy, riches of oligarchy, so is the mark of a democratic constitution equality (of the free). All free men have political rights, and, as a consequence, the poor rule, for they are in the majority. Democracy has also its gradations. For example, it may confine admission to offices to those of a low census. If in so doing the rule is placed in the hands of farmers of moderate means who must pursue their occupation in order to live, popular assemblies will be held only on important occasions and there will be rule according to law. On the other hand, in states that have spread far beyond the limits of the original community life and have large incomes to dispose of, the great mass of poor, in consequence of their preponderance, will provide not only for equality of rights to participate in government, but also for compensation out of state funds, so that they may pursue the affairs of government unhindered by the cares of industry, that they may, in fact, have the most leisure for it. There will arise a tyrannical rule of the masses that will not be directed according to law, but according to a majority vote of the popular assembly for the time being. Demagogues will appear in a rôle similar, and with an influence similar, to the servile flatterers of tyrants. "Let the people decide!" is their constant cry, and thereby they will always further only their own power. They know that they control the popular assembly, therefore they parade everything before the populace.

The course of evolution seems to have been this: in the

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beginning, small states lived under kings, since efficient, superior men were rare. After a large number of men had, through virtue, grown to prominence, aristocracies and polities arose. Self-seeking transformed these into oligarchies: the citizens, spoiled by avarice, enriched themselves from common property and gradually wealth and power concentrated into the hands of the few. Oligarchy then transformed itself into tyranny and there arose in opposition, through the growth of the states, the powerful masses who erected democracies.

The constitution of a state may contain component parts of different kinds of constitutions and may, more or less, approach one kind or another. Thus in the Laconian constitution kingship is a monarchical, and the council of elders (gerontes) an oligarchic, element, while the office of ephor is democratic, for the ephori were selected from the people and they also decided important matters; in fact, their power was so great that many regarded them as tyrants. In the constitution of Crete, which was probably the prototype of the Laconian, the kosmoi have the same power as the ephori have under the Laconian constitution; but since they are not elected from among the people in general, but only from certain families, there arises a dynastic rule. In the constitution of Carthage, the selection of the most important magistrates—kings and military commanders—is based upon efficiency and wealth; this is partly aristocratic and partly oligarchic. This constitution inclines toward democracy, since the decision of the king and the council of elders (gerontes) may be submitted to the people. On the other hand it is an oligarchic organization, as the council of five, who have a good deal of authority, not only elect one another, but

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also choose the council of one hundred, who are magistrates of the highest rank. Solon is praised because he wisely formed a mixed constitution: the council of the areopagus is said to be oligarchic, the offices being filled through election of an aristocratic, and the popular courts through a democratic, element; but he is also criticized because he made the popular courts of justice, composed of the people and chosen by lot, master over all, in consequence of which court was paid to the people as to a tyrant; and every demagogue busied himself in order to increase the power of the people. Pericles abridged the powers of the council of the areopagus and introduced the method of paying the judges; and in this manner democracy ultimately came to be what it is today. But it is evident that this course of development was not Solon's intention; it was rather a consequence of the Persian War, in which the people acquired spirit and self-reliance and then enlisted themselves under factious demagogues. Solon granted to the people only the most essential rights—the choice of their magistrates and the power of calling them to account, for without them they must have been slaves and enemies of other citizens; but Solon ordered them to elect all magistrates only from those persons who were of good account and property, namely, from the three upper classes—from among either those with an income of 500 measures, or who were teamsters or knights. As for the fourth class, which consisted of mechanics, they were incapable of holding office.

Now constitution signifies government, the supreme power in a state, its incumbents, the distribution and arrangement of power and the purpose which government pursues.

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The supreme power, the government, consists, first of all, in the advice and decisions concerning general affairs (war and peace, alliances, laws, death penalty, exile, confiscation of property, election and accountability of magistrates); in the second place it resides in the officials who are authorized to command—that is, in the magistrates (command is a mark of a magistrate); and third, in the court of justice.

A citizen, in the true sense of the term, is one who shares in this power of government, but not everyone who lives within the territory of the state is a citizen. Therefore citizenship differs in every government. In a democracy a citizen is one who has a voice in the popular assembly and who may be a member of the popular court of justice. Where there is no popular assembly and no popular court, but where magistrates advise and judge, a citizen is one who may hold these offices. He who has no share in offices of honor is, in Homer's phrase, "a foreigner without honor."

A state is an association of citizens under a single government; and, strictly speaking, it does not remain the same when its constitution changes, just as one harmony becomes another, even though the tones remain, when their relations are changed. When, for example, a tyranny becomes a democracy, must the state pay the loans which the tyrant has contracted?—a question which has led many into perplexity.

The diversity of constitutions arises from the fact that the state is made up of many different kinds of persons, different in means, origin, capacity, education. Nor have the philosophers of today or yesterday made this discovery; it has long been known that the people are divided

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into classes—farmers, mechanics, traders, day laborers, sailors, warriors; the last named estate is by no means of least significance. No state can dispense with soldiers. Let a king, the best, the richest, or the poorest rule, the rulers must arrange concerning arms in order to force obedience of the subjects and be able to ward off attacks from without. A state without a defense would fall a prey to the first aggressor, and a common life which, in accordance with such a condition, would condemn itself to slavery does not deserve the honored name State. But he who disposes concerning arms determines the nature and position of the constitution. While the strength of the war power was in the cavalry, an accomplishment of the rich alone, the constitution was oligarchic. The foot soldiers were not yet useful, for they lacked the tactical knowledge; the population was sparse and there was as yet no numerous middle class; the people, unorganized, permitted themselves to be ruled by a small group. As the states became larger and the heavily armed footmen acquired significance, the number of citizens who took part in government also increased; there arose governments under the rule of the middle class, called polity. Light-armed footmen and sailors ultimately constitute the democratic species of arms.

It is for political science to discover which would be absolutely the best constitution, a consummation by all means to be desired, if the favor of circumstances would permit of its realization; but as it is impossible for many to attain the best, the statesman must also know which constitution would be best under given conditions for a particular people. He dare not leave out of account that statecraft does not create men, but receives them from

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nature as raw material. There are persons who by nature are adapted to slavery, others are adapted for a kingly rule, and still others for a free, self-governing community life. One cannot universally apply a standard of virtue which transcends the powers of the ordinary man, which endowment, education, and means afford, and which fortune seldom grants. One must regard a single life, as most men can live it, as a pattern; direct one's view not merely toward the best, but also toward the possible, toward that which is practically attainable. To improve a constitution is, moreover, no less a task than to establish a new one; and political science must also furnish a means to this end. The statesman must understand how to improve a constitution already in existence; next how to create a political order which commends itself on the basis of consistent relations and for which he can gain sympathy and approval. He must also know by what means he can secure a constitution for the longest period; in a word, he must know both the preserving and the disturbing elements of a constitution, for the difficulty is not to organize a constitution, but to vouchsafe its continuance. Any constitution may be maintained for a short period, no matter how it is organized.

A statesman must also have the intelligence to recognize the best laws as well as those best suited for a given constitution, for the laws must be in accordance with the constitution, and generally they are. The constitution determines (as we have stated) the ruling power, its distribution among the magistrates, and the purpose which the government pursues; but laws are the norms according to which the magistrates govern and which check the insubordination of the subjects. The same laws cannot be

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serviceable as well for an oligarchy as for a democracy, not even for all oligarchies or for all democracies, for there are many kinds of each.

The opinion has been expressed that, in fact, not persons, but only laws, wisely fashioned laws, should govern; for the law is without those passions which necessarily attach themselves to persons. He who says "the law should govern" would apparently have pure, passionless reason rule; but he who says "men should rule" would give that rule to a wild beast, for passion and anger influence those who are in power, even the very best of men. But this does not solve the problem of the constitution. The question still remains, How shall the law be constituted? Oligarchic? Democratic? Should it have in view the good of the better class or that of the masses? Laws tend to conform to the constitution. Moreover, a general statement of the law cannot cover every individual case, and so the question remains, Who shall decide, if the law does not?

On the other hand, although law cannot determine everything in detail—and it would be a mistake if the magistrates always appealed to the letter of the law—it does not necessarily follow that no law is needed. Let one or several rule, laws are necessary and magistrates have to decide only in cases where the law contains no definite statement or where it fails to give justice. Even the schools of law develop the capacity of enlarging and improving it. Many appeal to the example of other arts, as, for example, the art of healing: it is better to take the advice of a good physician and to follow it in a particular case than to attempt to cure according to a general prescription; but, while it is ordinarily not to be feared that a



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physician who receives his pay if he cures the sick will deal wrongly through partisanship or corruption, it not infrequently happens that statesmen decide according to preference and inclination; and particularly an unwritten law, established by morals and customs, may be depended upon much more than the decision of a person. Indeed, many assert that it is generally injurious to change an old established law, even when a better one is offered in place of it; but that is going too far. In other arts it has been advantageous to forsake the customary. One should hold not to the old, but to the good. It would be foolish to adhere to the crude, simple, or even absurd institutions of primitive man. Even written laws cannot be unalterably laid down. But change in laws should always be made with great caution. If the proposed improvement is of slight significance, it is better to retain the defect than to get the citizens accustomed to the habit of frequent change, for change tends to lower the regard for law and to shake confidence in magistrates. The example of the other arts, to which reference has been made, is false. Change in legislation is not the same as in other arts, for the power which creates obedience to law is custom, which requires time.

Who should rule? A difficult question. For the power which a tyrant or the rich or the masses exercise over others because they are stronger, cannot be regarded as just, and the just is the good toward which the state should strive. But what is justice? It is the common opinion that equals ought to share equally, and upon this shibboleth all base their claim to rule. The masses cry: we are all free born; equal rights for all! The oligarchs say: we excel you in riches, in nobility (riches and virtue of ances-

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tors propagate themselves in the race, say the noble), and therefore you are not our equals, and it would be unjust to grant you the same rights that we should have. Both are partly right and think they are wholly right. Both fail in justice because they judge their own cases. The former believe because they are alike in one respect they are alike in all other things; the latter imagine because they excel in one point they excel in all. In an orchestra the best flute is not given to the one who is handsomest, richest, or greatest, but to the one who can play it best. He who is fleet of foot may claim the honor due him upon the gymnastic field. If the state were a commercial society, united for the purpose of industry, then it would be entirely proper to have each individual share in the government of the state in a measure proportionate to his property. Neither is the state purely an association of soldiers organized for the purpose of warding off hostile attacks. Commercial treaties and military alliances between Tyrians and Carthaginians do not unite them into a state. Neither is a union to secure mutual protection against injustice, or for the purpose of concluding marriages between two groups, a state. Merely living together does not constitute a state. All these things are necessary, and, in addition thereto, cultural societies and social unions in which friendship is cultivated, for friendship is essential to community life.

According to its nature the state is, however, a union of races and local communities into a complete life. That is, life in virtue; and he who contributes most to this has the greatest share in the state. Not the extent of landed possessions and taxes, but spiritual and moral power should be the measure for participation in government.

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Should the best man rule and have full power over all? But if there are many excellent men in the state, are not these taken together, though inferior as individuals, more excellent than the best monarch? A feast toward which many contribute can certainly be better than one in which a single individual bears the entire cost. A small quantity of water evaporates more quickly than a large quantity; passion overpowers a single person readily, but many at the same time with difficulty. Nor can a single person alone arrange everything; he will require helpers, such as are kindly disposed toward him, and will permit them to take part in government. Why not order a government in this wise at the beginning? It is also unjust, unnatural, that one should rule over his equals for life. Therefore an aristocracy would be preferable to a monarchy.

But are not the masses collectively still more efficient than the few who are gifted? Not only are there many hands, feet, and minds—their understanding and their power to judge are manifold: one comprehends this, another that, and all, the whole. It is entirely possible that the masses, taken together, are stronger, richer, and better than the few who are good, but this is not always the case; the masses may become enslaved, in fact, brutal. Nevertheless, it is unjust and dangerous to completely exclude the great mass of people from government and from offices which confer honor. Those without property and honor are enemies of the state. Since the good qualities of the masses are only manifest in their collective capacity and not in the individual, common man, Solon was right in not admitting to office the individual, common man, but in giving the popular assembly the right to elect officials and to hold them to account. One might indeed

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believe that this right would better be exercised by the intelligent than by the masses: those experienced in navigation know, they understand how to select the right kind of a pilot; one physician knows precisely how to bring another physician to account. But the dwellers of a house may say whether the house is well built, and the guests may decide whether the food is good.

In the best state, in an absolutely good government, all citizens will in turn govern and obey, always according to law. Each would be capable and it would be possible for each to take part in government; that would be justice toward which the state should strive, for its purpose is the happiness of all; but happiness consists in deeds, in noble and good transactions, and not until there is action for the common good does virtue unfold itself.

If there is one person in the state who so excels others in spirit and virtue, in political intelligence and energy, that others can in no sense be compared with him, that person is no longer to be regarded as part of the state. Law is designed for men of approximately the same stamp. To attempt to prescribe laws for a genius would be a ridiculous undertaking; he is a law unto himself. In the states of today such men are put aside: the tyrants and the oligarchs permit their being put out of the way; democracies banish them through ostracism. In the best state one would certainly not cast out such a person, nor wish to govern him, but do what is natural, noble, and just—willingly obey him. He and his kind are kings for all time. Among men who are very much alike a change of rulers is the noble and just thing; that one should rule over his equals for life is contrary to nature.

As a rule, kings have been selected from among the

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better, well-to-do citizens in order that they might be protected in their property from the people. The tyrant, on the other hand, generally comes from the ranks of the demagogues; he is elevated by the common people as the leader against the rich. The kingly government, since it is founded upon the merit of the king, stands close to aristocracy. The aim of the king is the good and the noble; the tyrant's life purpose is power and pleasure. Kings seek honor; tyrants, gold.

A king must also have, in addition to virtue, power—armed power—in order to give validity to the laws. This power should be strong enough to exceed that of any individual and also that of a combination of many, but weaker than that of the entire people. And herein is shown the difference between king and tyrant. The people provide a king with a bodyguard; the tyrant places about him foreign soldiers to use against his subjects. Kingship should be hereditary if virtue is hereditary. It would seem as if the children of kings should have a special training to prepare them to rule: "No, it is not vain splendor that the state needs!" (Euripides). The fact is that in an hereditary monarchy there are also contemptible fellows who succeed to power, and that leads to the downfall of monarchy. The hope that the virtuous king, being lord over all, will not transfer the rule to an unworthy son is vain; such a degree of virtue transcends the power of man.

It is indeed praiseworthy in the constitution of Carthage that the king is not always taken from the same family and that among the sons of a distinguished family age is not the determining factor, but that the choice is made on the basis of excellence. For kings, since they are placed over great things, do a great deal of injury if they are inefficient.

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In the Laconian constitution kingly power is indeed hereditary, but it is distributed to two. There, it is said, discord between kings redounds to the welfare of the state. This distribution of kingly power has contributed much to the maintenance of the kingdom. Theopompus limited the power of the kings still more in that he placed beside them the powerful ephori. When his wife reproached him by asking whether he was not ashamed to leave less kingly power to his children than he had inherited, he replied, "I leave it much more enduring." Indeed, it is through moderation that kingship is maintained, for then the rulers are less likely to become despots; they live more nearly on an equal footing with their subjects and are less likely to become the objects of their envy. Those who have inherited a kingdom without a ruler's virtue—that is, goodness and intelligence—rule with arrogance, overstep the bounds of law, and attempt to govern despotically without possessing the ability of the tyrant; and so their downfall is easy. Dispute in the kingly family also leads to ruin. Discord of rulers brings them to a fall.

The majority of states are either oligarchic or democratic, just as the prevailing winds are either north or south. The contrast between rich and poor is of the greatest significance in a constitution. There are but few who are noble and virtuous, but there are many rich and poor everywhere. The same person may be a farmer, a mechanic, and warrior, also a member of a council and a judge, just as most people lay claim to political capacity and imagine they could easily administer any office; but the same person cannot be rich and poor at the same time.

The rich and the poor constitute the two principal classes in a state and are invariably set over against each

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other; and the preponderance of the one or the other determines the constitution. For the passions and conflicts between the masses and the rich always result in a rule of force by the victor—that is, in an oligarchic or democratic constitution instead of one based upon equality and common interest, aiming at the common good—and the victor regards the rule as a proper reward for having triumphed. In fact, man no longer strives for equality; he either rules or subjects himself.

The difference between aristocracy and oligarchy is often misunderstood because the few rule in each case and because the well-to-do are generally regarded as the educated, as standing on a higher moral plane, and as the “better people.” It might appear also as if those who are already in firm possession of wealth the attainment of which causes so much injustice, when free from this sting, would be inclined to a righteous conduct. But the selfishness and greed of the rich is always more injurious to states than is the selfishness of the people. The name aristocracy is properly applied only to a state in which the magistrates consist of men who are really good and thoroughly virtuous. In an aristocracy the idea of a good citizen and that of a good man are the same thing, while elsewhere one may be a good citizen in relation to government without being a good and noble person in the true sense of the word. It is self-evident that a government of the best signifies a government for the common good, a government which has as its aim a virtuous and honorable life for all. Certainly such a state must be legally well ordered; this means, on the one hand, excellence of laws, and on the other, obedience of citizens to the laws.

The constitution of the Carthaginians is not a pure

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aristocracy, since in the election of magistrates not only virtue is taken into account, but riches also are a factor. Many approve of their opinion that one without means, who must first of all provide for his own subsistence, is not in a position to administer an office well, since he cannot devote the necessary time to it; but the fault is with the lawmaker, for it is most important to provide that the best men have leisure and are not placed in a situation unworthy of their dignity, whether they hold office or not. It is, consequently, a grave error if, as in Carthage, the highest offices are purchasable. Such a law will bring riches to greater repute than virtue and will spread the spirit of greed among the whole people, for the general estimate of the people is determined by what the rulers regard as valuable and honorable, and where the highest regard is not paid to virtue, the detailed aristocratic order of a constitution will not be permanent. It is in the very nature of the case that those who attain to office at great expense will seek to profit from it, and this will become a custom. Those who are best qualified to govern should govern. Yet an aristocracy, in the true sense of the term, in most states, is scarcely feasible. Nor should it be forgotten that it impairs justice in so far as only a few hold offices of honor. The people will oppose it where they are self-reliant and where there are many who consider themselves equal in virtue to the rulers. Only that constitution can have permanency which protects equality on the basis of merit and permits everyone to have that which is due. The more aristocracy inclines itself to the government of all—that is, to polity—the more firmly does it become established, for the majority are the stronger and equality satisfies the people.



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It is for this reason that the Laconian constitution mixes the rule of virtue with the rule of the people. A place on the council of elders (gerontes) is the reward of virtue; well-deserving men have a claim upon it, but they are elected by the popular assembly, as are also the ephori, who are themselves men from the people. It is a mistake to suppose that those who are deemed worthy of the office of gerontes should themselves be required to seek it. He who is fit for an office should be compelled to take it, whether he wishes it or not. It is also doubtful whether the office of gerontes should be held for life and whether it should be intrusted with the most important affairs of the state for life. To place one in such a situation is too high a distinction; it is rewarding services beyond measure. As the body, so the spirit yields to the weakness of old age. In fact, the gerontes often prove themselves corruptible and partisan; the leaders can do as they wish, and their insatiable greed impels them invariably to concentrate wealth into a few hands; and so the Laconian constitution will degenerate into an oligarchy.

Oligarchies may be divided into four grades. If the property requirement for participation in government is moderate and everyone who acquires it is placed in the rank of the politically qualified, this number will be quite large; and as their means are not large enough to permit a leisurely life, entirely free from care, devoted wholly to the affairs of government, it is advisable that they have a government administered according to law. This kind of oligarchy holds to moderation; laws rule, not persons. If the property qualifications are greater, and the number of rulers is smaller, their claims will also increase with property and they will take it upon themselves to deter-

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mine, through election, who, among the citizens, will be admitted into the circle of rulers. But in this second grade the government is also limited by laws. The third kind of oligarchy arises when it becomes a rule that the son succeeds the father in office and when the offices of government become the exclusive, hereditary possession of a few families. Through riches and through adherents the power of individual families rises still higher, and the oligarchy becomes a tyranny, a lawless dynastic rule.

An oligarchy may gradually, unobserved, be transformed into a polity or a democracy, if the census remains the same, and the general well-being, in times of prosperity and continued peace, has risen to such a degree that the majority of citizens have attained the prescribed property qualifications. It is therefore advisable to compare every year—in the larger states every three to five years—the total income from taxes with the preceding year, and to increase the census in proportion. On the contrary, if the general well-being has decreased, the census should be lowered in order to prevent the constitution from changing to a dynastic rule.

Oligarchic lawgivers have a way of applying certain artifices to give the constitution a more favorable appearance. They provide, for example, that everyone shall have the right to participate in the popular assembly, but compel the rich to pay a penalty for non-appearance, while the others are exempt. The same with the jury court; and further, those of means may not refuse an office, but the poor may. The rich are in duty bound to bear arms and to take part in physical exercise; the poor are not. To all appearances, according to this arrangement the people are all of equal authority, even-favored;

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in reality the intention and the result are to exclude the poor from the popular assembly, from the courts, from offices, from arms and physical exercise; the rich, on the other hand, are forced to participate in the exercise of governmental powers. But it is a mistake to build upon such delusions of the masses; time reveals the true meaning of these artifices and out of the seeming good a real evil comes forth.

Oligarchies may maintain themselves for a long time if the rulers understand how properly to deal with one another and with the subjects. The essential condition is that the rich and the educated be not injured in reputation, the masses not hindered in their acquisition, for honor is the sensitive point of the former and property of the latter. If the ruling class is numerous, a short tenure of office is advisable, so that each one qualified may serve in turn. Formerly frequent change was demanded so that each was compelled to bear, for a short time only, the burden of the common affairs; but at present men force themselves into governmental positions and do not wish to stir from them, as if their health depended upon holding office. A short tenure of the highest offices may also prevent a change from an oligarchy to a dynastic or tyrannical rule; one who holds office but a short time cannot readily carry out evil intentions; a long-continued possession of the power of government misleads to tyranny. While equality should be guarded among those who belong to the ruling class, one should not restrict the masses, who care less for honor than for acquisition, nor deal with them in an arrogant manner. One must also take care that the incumbents of government offices do not enrich themselves from their positions. The masses will not be greatly grieved if the way to office

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is barred against them; in fact, they will be glad if they can pursue their business undisturbed; but they must not be led to believe that the holders of power are improperly appropriating public funds. For to be excluded from honors as well as from profits is a twofold injury which stirs them to revolt. In an oligarchy the poor should also be admitted to those offices which carry with them an income. Although the magisterial offices in which is administered the power of government are intrusted only to those possessed of full citizenship, it is useful for the permanence of an oligarchy to admit others, to an equal or even a greater extent, to the lesser offices. It is commendable, in fact, to take into the government some from among the people, or to admit the mass of the people themselves to participate in the deliberations, at least to the extent that they may approve the proposals submitted by the magistrates or make proposals that the magistrates are to approve. The higher offices which remain in the hands of the privileged class should be devoted to valuable accomplishments for the general community, so that the common man will be glad to be relieved of public service and willingly grant to the holders of office that power which is so dear to them. These should, upon entering office, prepare sacrificial feasts and institute public works, so that the people, when they have enjoyed the feasts and have seen the city decorated with splendid monuments and beautiful buildings, shall wish the continuation of the constitution for all time.

Above all, an oligarchy should, in its own interest, accept the poor. Noble and wise is the example of the Tarentines, who shared the use of their property with the poor and so conducted themselves as to win the favor of

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the masses. Or the rich should offer to provide some of the poor with the necessary means to engage in an occupation. Every outrage which the rich commit against the poor should be severely punished, but rulers are not readily inclined to show such fairness. The weak seek after equality and justice; the strong care little about it.

The principle of democracy is equality according to numbers and not according to values. In consequence of which the majority rules; the will of the majority becomes law. Democracies vary according to the class which has the majority; and in accordance with that the organization of the constitution also varies.

The best kind of democracy arises where the masses of people live by agriculture. There the people eagerly pursue their daily work, have more interest in their labor than in the affairs of state, concern themselves little about government, unless the offices are supposed to bring in large returns. Having once permitted a tyrannical rule, these people will now endure an oligarchy, if it does not take from them the products of their labor. They have no time for numerous assemblies. They all meet together only when a question of war or peace is to be decided, when new laws are to be passed, when magistrates are to be elected or when they demand of them accountability. All citizens enter office in a fixed order according to rank or according to lot; or the magistrates are elected by all of the citizens, from all or only from the propertied classes who have sufficient leisure. Or experts are elected, especially to those offices that require technical knowledge. If in choosing officials ability only is considered, the result will be an aristo-democratic government that will administer the state well. The offices will be in the hands of

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the best; the people will favor their officials, while their own political ambition will be satisfied through the right of election and of removal for cause; the higher, more educated classes will likewise be satisfied, since they are not to be ruled by people whom they regard as inferior; and the officials will be just, since they are held to account. Responsibility is wholesome; freedom to do as one pleases awakens the evil that slumbers in everyone. The best democracy, therefore, is the one in which the agrarian element preponderates. To protect this class of people and, at the same time, the constitution, there were in many states ancient laws which forbade one to sell or encumber a certain portion of his landed property or to increase his ownership in land beyond a certain measure.

Pastoral tribes are also well adapted to a good democracy and they are especially fit and hardened for war service. On the contrary, democracies in which the non-agrarian element rules are bad: none of the occupations which employ the masses as artisans, traders, or day laborers requires or cultivates moral strength. In an aristocracy, which bestows office on the basis of virtue and merit, none of these people could become citizens. One who leads the life of an artisan, a shopkeeper, or a day laborer does not have the opportunity of becoming experienced in that which belongs to virtue. There was a law in Thebes which provided that no person who had not abstained from every kind of business connected with the market for at least ten years should hold any state office. While the peasants are scattered about over the land and assemble with difficulty, these other kinds of people live in the city, move about in the market place, and collect themselves together rapidly into popular assemblies. Such people do not feel

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themselves bound by any law and, though every decision is popular, they rule as a tyrant. Their flatterers, the demagogues, come to honor and the better people are suppressed. The magistrates lose all control, for he who is displeased with their decisions brings them before the judgment of the people, who are only too glad to judge concerning all things. In such democracies liberty means that everyone does as he pleases, lives "according to the desire of his heart," as Euripides says. An unrestrained life is agreeable to the great masses; a life of discipline, according to law, seems slavery to them. Not noble birth, riches, and education, but humble birth, poverty, and crudeness, have preponderance. Those who participate in the popular assemblies are paid a high daily allowance as indemnity against loss of acquisition. In fact, it is because of these fees attached to public service that the people themselves are so eager to decide all matters and take from the officials their power. It is a democratic artifice to pay the poor for participation in popular assemblies and court sessions, and to impose no penalties upon the rich if they absent themselves; although it would be advantageous to a democracy to secure the participation of the educated classes in its deliberations, if for no other reason than that both parties would thereby have a hearing. Compensation for all public services, a salary for the popular assembly, for the courts, for the magistrates, preferably for all, is characteristic of a democracy. Also a short tenure of office, where the position admits it, and that no one should hold the same office twice, is in accordance with the democratic idea.

In order to be able to compensate many, taxes are imposed upon those who have property, or their property is

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even confiscated. The demagogues, to win the affection of the people, bring action for high treason against the rich and allow their property to be confiscated. This process has been the cause of the fall of many democracies, since it drives the people of rank to revolt. Where the state has the disposal of other large incomes, it is a mistake to distribute the surplus among the people as the demagogues do. Let the people receive money today; tomorrow they will again be in dire need, a vessel of the Danaides. Of course the democratic statesman must take care that the people shall not want, for otherwise democracy will fail; but he must provide means that will bring about permanent well-being. The two oboles which are distributed will suffice as a beginning, but when once the habit is formed, more will be demanded. Never satisfied is man; measureless the greed to the appeasement of which the life of the great masses responds.

In order to strengthen democracy, the demagogues admit the greatest possible number to citizenship, including also the illegitimate or those who, on one side of their parentage, spring from an unfree origin, and such like. Of course those people who desire a constitution should be stronger than those who do not; but in the admission of new citizens one should not exceed a number beyond which the masses will secure a complete preponderance over the eminent and middle classes, lest disorder arise among the masses and an embittered feeling be engendered among the better class, which will lead to revolution. Commendable are the means which Clisthenes applied to strengthen the Athenian democracy: to divide the people into many new tribes and fraternities, and to establish, instead of private religious associations and sacrificial feasts, a small num-



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ber of common sacrifices, and to do everything possible to blend the classes together and dissolve their former associations.

The lawgiver should not concern himself merely with that which gives the constitution the external appearance of a real democracy or oligarchy, but that which gives democracy or oligarchy firmness and permanence. An organization which has the stamp of democracy and passes for democracy may actually destroy democracy, and an apparent oligarchic arrangement may ruin an oligarchy. It would seem desirable that statesmen thoroughly understood this. They go wrong when they attempt to order a constitution in every detail according to a general principle. The principle of a constitution should not be carried to the extreme. The wise avoid extremes; excellence lies in the middle course. A democracy can be created with a fair degree of success, even if it departs considerably from the best possible order: if, however, it goes beyond a certain limit, it becomes bad and goes to ruin.

There are states in which the oligarch takes an oath: "And I will become an enemy of the people, and in thought and deed will seek to injure them." If they were wise they would solemnly promise to do no injustice to the people. In democracies demagogues incessantly stir up hatred against the rich. Their method, to win the confidence of the people, always consists in representing themselves as enemies of the rich. They should do precisely the opposite—to so speak as if they were their advocates—for all citizens should be favorable to the constitution, or at least not be compelled to regard the rulers as their enemies. Because the demagogues cause individual actions to be brought against persons of means, partly incite the whole

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mass of people against them, drain their incomes through taxation, and permit confiscation of their property, they compel the eminent to unite themselves in order to overthrow democracy. It was because of the demagogues that democracy in Cos, Rhodes, Heraclea, and Megara was overthrown; the prominent persons who were persecuted and banished gathered themselves together in exile, returned and conquered the people. Many other examples of this kind could be mentioned. Whenever democracy, through disorder, lawlessness, and bad administration, fills the well-to-do with contempt, the latter rise up and overthrow the constitution, as they did in Thebes and Syracuse.

Whenever the prestige and power of one or the other of the popular classes increases, it carries with it a change in the constitution. In Argos the nobles acquired great fame through their victory over the Lacedæmonians at Mantinea and, supported by this, they undertook to put an end to democracy; and at Syracuse, the victory in their war with the Athenians being due to the common people, they changed their free state into a democracy. The maritime force, composed of the common people, having gained the victory at Salamis, got the lead in the state and strengthened the popular party in Athens.

It is also dangerous for democracy as well as for oligarchy if the power of the individual citizen increases excessively. Therefore no magistrate should be given too much authority in the exercise of power. Too great an honor corrupts; not everyone can brook fortune. The offices—where the principle can be applied—should be vested with little authority, or at least a great deal of power should not be granted at once, nor withdrawn at once, but very gradually. It is a misfortune to clothe one man with several

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offices at the same time. One can execute a piece of work well only if he devotes himself entirely to it. The affairs of a state can be disposed of more quickly for the general good if they are taken care of by many; but one must also guard against the acquisition of too great an influence through wealth, social connection, nationality. If this cannot be prevented, the powerful should be compelled to leave the country, as they did in Argos and Athens, through ostracism.

Slight, scarcely observable changes in a constitution are often the causes of its dissolution. The removal of an apparently insignificant object from a building may weaken the entire structure and cause it to fall. In Thurii it was forbidden to reelect military generals. The military leaders, who had become famous and beloved, attempted to repeal this law. A council of the guardians of the constitution at first opposed this, but finally yielded in the delusion that by so doing they would satisfy malcontents. When later they attempted to prevent a further encroachment upon the constitution, they were unable to maintain their position; the aristocracy was transformed into a dynastic rule of the innovator.

It generally causes unrest if individuals, or any number of people, commend themselves to popular favor for the ulterior purpose of enlarging the state, its dominion, or its power. Having made themselves deserving, they will claim honors and rights which others are unwilling to concede. In fact, a general cause of revolution is the feeling or opinion on the part of a group that it does not have that share in the state to which it is rightly entitled. In order to enforce equality, those who consider themselves set back, revolt; while another group revolts to gain privileges corre-

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sponding to its supposed superiority. If the latter were a valid reason for revolting, those who are least given to it would have the greatest reason for doing so, since they excel in spirit and virtue. Indeed, they might well lay claim to a position resulting in inequality; but the noble minded are not revolutionary and their number is also exceedingly small. The cause of revolution always lies in the real or supposed injustice of government, but the things about which the conflict revolves are possession, power, and honor. Revolutions may arise out of small matters, but never because of small matters. A slight occasion may kindle civil war; the object of the war is always important.

Racial diversities of population may also cause unrest until there is complete amalgamation—a condition that requires time. The admission of strangers to citizenship, whether at the founding of the state or later, has nearly always occasioned discord and conflict. Sometimes local conditions are causes of discord, especially if, because of natural diversities of the soil, a unified community life cannot properly develop. Thus in Athens the inhabitants of Piræus are much more democratic than those of the city. As in war the smallest rift that cuts through a phalanx tears apart the closed columns, so every difference, from its very nature, seems to bring about a cleavage and an opposition. A change in a constitution may be brought about by means of force or by craft; and force may be applied at the beginning or later. One may deceive the citizens and change the constitution with their consent, and later, when the treachery is discovered, assert power vigorously against their will, or pacify them later on through persuasion and deception.

There are two types of revolution: one is directed against

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the constitution, changing, for example, an oligarchy to a democracy, or the reverse; in the other the revolt is not concerned with the constitution, the disaffected party being unwilling to retain it and merely wishing to place itself in power. Therefore, the question to consider may be whether the principle of the constitution should be strengthened or weakened—that is, whether the oligarchy should be made more or less oligarchic, the democracy more or less democratic.

In general, revolution promotes oligarchy more than it does democracy. Oligarchy is threatened with danger from two sides: from the discord of the oligarchs among themselves and from the enmity of the people. If the leaders quarrel, the people may easily get in between and come forth victorious. The affairs of the great, of the leaders, are important in their consequences; they engage the sympathy of the entire state. A petty dispute between powerful personages may lead to a revolution in the state. Marriage and love affairs have inflamed wars and civil wars. Therefore the rivalries of the great should never be disregarded, and it is well to reconcile them at once. The fault lies at the beginning and, as the adage expresses it, the beginning is half of the whole; but to detect the evil in the germ is by no means simple. If within an oligarchy another oligarchy is formed, which excludes a large number of the rich from governing, the latter will call the people to their aid and overthrow the government. Likewise, ruined oligarchs who have squandered their fortune are, for the most part, political rooters who stir up the people that they themselves may become tyrants or help others to that position; or they seize public property and thereby incite disorder.

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If members of an oligarchy through mutual jealousy play the demagogue, it soon puts an end to the oligarchy; and this is what will happen if the rulers come from the rich but are elected by the poor, or if the court is not with the ruling class but with the people. The movement toward revolution proceeds from the people if they are oppressed by the oligarchs with cruel arrogance. All that is required to overthrow the oligarchy is a popular leader who is at the time a member of the oligarchy. Oligarchy often succumbs to an attack of the people because the light-armed infantry proves itself master of the cavalry and the heavy armor. For that reason the oligarchs must follow the example of the commanders, who are experienced in war, and support the cavalry with light infantry; but it would be dangerous to recruit these troops from the people; rather the oligarchs should instruct their own sons at an early age in this easy service and use them for that purpose.

If in war the oligarchy cannot dispense with this summons of the people, it will, as a consequence, be compelled to grant the people a share in the government; but if it distrusts the people and prefers to enlist mercenaries, it encounters the danger that the commander of the army will elevate himself into a tyrant.

Democracy must fear the rich as well as those leaders of the people who are demagogues. The tyrants of earlier periods for the most part sprang from demagogues who were also commanders of the army. Democracy at that time generally transformed itself into tyranny. At present this does not happen, because the demagogues of today are still more adept in the art of speech, but know nothing about the profession of arms. For that reason they do not venture to become sole ruler, and if they do their rule is

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short-lived. Also in earlier periods the states were smaller, and, as a large part of the people were occupied in tilling the soil, a popular leader in the city, with a talent for war, could easily elevate himself to a tyrant. All who did this were carried to their positions upon the confidence of the people, which they won by their enmity against the rich. Thus Peisistrates became tyrant in Athens because he stirred up a revolt against the large landowners of the plain; Theagenes, in Megara, because he took the herds away from the rich.

An oligarchy or democracy may also be transformed into a tyranny if too much power is intrusted to a magistrate or if one holds the power of government too long. Kings also, transgressing laws, have arrogated despotic power to themselves; for if one already has the power in his hands, the step to tyranny is easy as soon as there is a will to take it. Therefore one should never cease to guard the constitution. In fact, those to whom the constitution is sacred would do well, at times, to arouse apprehension, to put the public in fear, to represent remote dangers as near, that the citizens may be on their guard.

In tyranny the evils of oligarchy and of unbridled democracy are united. As with oligarchy, so, too, is the rule of the tyrant dependent upon riches, for his life's object is enjoyment, and he needs money for his luxurious existence and for his army upon which he depends. Both oligarchy and tyranny oppress the common people, distrust them, disarm, scatter, and banish them. Democracy, in common with tyranny, wages continuous war against the nobles, whom the tyrant seeks publicly and privately to destroy because he sees in them his rivals, his obstacles to sole rule. In fact, conspiracies proceed from them, for

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they themselves wish to rule or at least not to be subjects. When Thrasybulus asked Periander for advice as how to govern, the latter made no reply, but, as he went through the cornfield with the messenger, he struck off the most excellent ears. Thrasybulus understood the answer: that he was to put aside the most excellent men. Righteous, free-spirited, honorable men are hated by the tyrant, for they tolerate no despotic rule; they remain loyal and commit no treason; their respectable appearance at once places the tyrant in the shade. Only evil men are given to that flattery and cringing in which the tyrant finds his joy, and the evil ones are his tools for evil. Of tyrants, the ordinary method of governing is to rid themselves of the deserving, the men of courage and self-respect, to tolerate no fellowship at table, no political or social associations, to suppress public education and organizations—in short, to prevent everything from which self-respect and mutual confidence develops; for these overthrow tyrannical rule; on the other hand, they encourage every effort through which low-spirited sentiment and distrust arise, for the low-spirited do not venture to revolt; and as long as the citizens have no confidence in one another the tyrant is safe. Assemblies of every kind are forbidden, so that the citizens may not become acquainted with, and therefore trust, one another; the fear of listeners and tale-bearers checks freedom of expression and nourishes suspicion. To create enmity among the citizens, to set friend against friend, the people against the nobles, to incite the rich against one another—these are the usual practices of tyrants. To make the subjects pusillanimous, quarrelsome, and powerless—all the measures of the tyrant are directed to these ends. Poverty and oppressive labor take from



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the people the power and the courage to revolt. They become poor and weary through high taxes and heavy drudgery: for the latter, the building of the pyramids in Egypt, the Olympian temples under Peisistrates, and the works of Polycrates in Samos may serve as examples. The tyrant conducts wars that the people may have no rest and may not dispense with him as a leader.

The same forces that bring about the fall of the most extreme oligarchies and democracies will also cause the fall of tyrannies—those constitutions are in fact tyrannies with many tyrants. Endured injustice, disesteem, and fear will incite revolt. Violent and scandalous treatment especially incites revolt; sometimes also the taking away of property. The tyrant is very mindful of those and their adherents whom he has offended. For the most part these do not seek power, merely revenge; they are terrible because they are inflamed with passion and care nothing for their own lives if they can only get his. The tyrant who wishes to maintain himself is careful about mistreating his subjects physically and sexually, and when he punishes he gives himself an air of doing it out of paternal considerations rather than out of contempt; and he seeks to redeem the perpetrated insult by conferring greater honors. Licentiousness makes a ruler contemptible and incites to revolt. If one cannot be moderate, he should at least keep up an appearance and conceal his debauchery from the eyes of the world, and not, as do many, deliberately flaunt their sensual lives in order to be admired as favored and happy persons. Tyrants who themselves have acquired their rule can generally maintain it, but their descendants soon lose it because their dissolute lives make them contemptible and give their adversaries an

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easy opportunity to destroy them. It is generally the friends of the ruler who, because of contempt, undertake such projects. The confidence which he has given them merely nourishes their contempt and their hope of success. The tyrant should trust his friends least of all; but also those who seem strong enough to seize the rule for themselves will go forth to revolt if to their self-reliance is added the contempt of the ruler. Generals have thus overthrown rulers; Cyrus thus overthrew Astyages.

Riches and power which the tyrant enjoys are things which the whole world desires; greed and ambition are the mainsprings of most conspiracies against him. There are also outrages which do not aim to get possession of the government, but are committed merely for the sake of the fame which the unusual act promises to those who perpetrate it.

The tyrant can extend his rule for a long period if his method of governing approaches that of the regal, but in doing so he must hold the power firmly in his hands so that he can also maintain the rule against the will of his subjects. As for the rest, he may play the rôle of a king. He must especially let it be known that as regards public property he acts conscientiously. He must not squander it in gifts which will embitter the people as they witness how the results of their hard labor are taken away from them and lavished upon mistresses, strangers, and artists. He should build up the city, beautify it, and render accounts of the income and expenditure, so that he will not appear to his subjects as a consumer, but rather as an administrator of their property. In his manner he should be dignified, not repellent, creating respect rather than fear. If he is not already possessed of another virtue, let him at

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least strive to be a thorough statesman and to be regarded as such, so that the people will have a high opinion of him in this respect. Further, he must let it appear at all times as if he viewed religion with uncommon seriousness. If the people regard the ruler as God-fearing, they have less fear of being dealt with unjustly; and they are also not likely to venture a revolt against one whom the gods support. Still, he must not appear superstitious; neither must he allow haughtiness in those about him. The haughtiness of women has brought many a tyrant to the end of his rule. He must permit efficient men to obtain honors, that they shall feel that they could not obtain a higher position from their fellow-citizens, even under a free constitution. Honors should be conferred by himself, but penalties should be inflicted by others. But every monarch must guard himself against making anyone especially prominent; it is better to elevate several who hold the balance against one another. If he cannot forbear making one person great, it should not be a bold character. If it seems necessary to withdraw a power, once conferred, it should be taken away gradually, not at one time. It would be best if he could bring the two classes in the state, the rich as well as the poor, to the opinion that their well-being is entirely dependent upon his rule; he should always win the stronger class to his side.

If a tyrant, in these kingly ways, rules with moderation, his rule will become nobler, more peaceful and durable; he will rule over a better people, because they are not degraded; he will not live in the eternal fear of their hatred, and his mind will gradually incline to virtue.

Constitutions are overthrown from without through the influence of a neighboring or other more powerful state

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which has a constitution of an opposite character. The Lacedæmonians have dissolved many tyrannical governments and the Athenians many oligarchic. A conflict between two governments arises when the constitutional principle of the one is opposed to the principle of the other; and the will to oppose will be put into effect when power is added. Democracy and tyranny are opposed to each other, as one potter is to another, because the most extreme democracy is a form of tyranny.

Bad constitutions may be supported from without if other states have an interest in preserving them. In the long run, however, a constitution can only be maintained upon its own condition, and that is if, so far as possible, every citizen is satisfied and if in no class the wish arises to have a change.

The best and most durable constitutions are those which are created by the middle class and which hold to a course midway between oligarchy and democracy. The class of moderate means is the one most likely to listen to reason. The excessively rich, strong, and noble, as the exceedingly poor and humble, seldom hold to the course of reason, the middle course of virtue, which is the happiest in the life of a state as in the life of the individual. A surplus of the gifts of fortune leads to arrogance, to crime on a large scale; misery causes malice, makes rogues in a small way. The former cannot obey, only rule despotically; the latter are servile, incapable of commanding. Where there are only the extremely rich and the extremely poor, the state consists of masters and slaves who are disrespectful and envious of one another; there the feeling of friendship which is essential to the community life of a state cannot develop. With enemies one may not even share the public highway.

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Happy is that state in which the middle class is numerous, where many citizens have moderate but adequate means. There the equality or similarity which a state requires is present. Where one class has much and the other class has nothing, an unbridled oligarchy or an unbridled democracy will arise, and out of both, tyranny. Where the middle class is numerous, stronger than either of the others, or stronger than both, it will not permit extremes to develop. It will rule just as an arbiter, enjoying the confidence of the rich and the poor. There need be no fear that the extremes will combine against the middle class; such a government is least given to revolutions and will last for a long time. The greatest lawgivers came from the middle class: Solon, Lycurgus, Charondas, and nearly all others who were great. The organization of a government resting upon the middle class, which is called polity, is midway between oligarchy and democracy, the two organizations being mixed or amalgamated. The more excellent the mixture, the firmer the constitution. The mixing of different kinds of organizations results in polity being sometimes regarded as democratic, sometimes as oligarchic, and so designated.

Participation in the rights of government in a polity is sometimes based upon the free born, as in a democracy; sometimes upon property, as in an oligarchy; sometimes upon virtue, as in an aristocracy. Polity and aristocracy stand close to each other. The polities which incline more to oligarchy are called aristocracy; those which approach democracy are called polity.

In the Laconian constitution, for example, education is democratic; the children of the rich and the poor are brought up in the same way; also the youth and adults are

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subject to the same discipline; the food at the common meal is alike for all; the clothing of the rich is of a kind which every poor person can obtain. Also this is democratic, that the council of elders is elected by the popular assembly and that everyone may be elected to the office of ephor. On the other hand, many regard the Laconian constitution as oligarchic, because all offices are filled by election and none by lot, which is commonly held to be a democratic method of holding office; further, because the right of the death penalty and of banishment is in the hands of the few. A polity may limit the right to participate in the lawmaking assembly to a moderate census, so that those citizens who are capable of bearing arms become the possessors of the political power; but since both the rich and the poor appear, the latter are compensated for attending, while the former, if they remain away, are penalized, and this prevents the power from falling into the hands of one party. A part of the officials may be elected; others chosen by lot, some from among all, without distinction; others from the propertied class or from those who have ability. In the same office, for example, in a court of justice, some of the positions may be filled by election, the rest by lot; the former on the basis of administrative efficiency, the latter in order to give the common man access to office. In these and other ways, polity combines the oligarchic and democratic elements, and the better it succeeds in satisfying both, the more durable the constitution becomes. In the supreme governmental offices in a well-ordered polity, attention should be directed to three attributes: (1) to the love for the constitution; (2) to the greatest capacity for office; (3) to virtue. If these three attributes are not united in the highest

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degree in one person, the one who possesses the rarer attributes in the highest degree is to be preferred. Military talent is rarer than virtue; for that reason, in the selection of a commander, military ability should be considered above all else. To supervise the public treasury no extraordinary capacity is required, except a greater virtue than is found among the masses. Why, in addition to capacity and love for the constitution, is virtue also necessary? Because he who lacks discipline, moderation, and justice cannot even put his own affairs in order, to say nothing of public affairs.

In a polity one must especially guard against the slight, scarcely observable changes and transgressions which gradually undermine a constitution, such as small expenditures which use up property. The original census, correctly established, which secures government for the middle class, may in time become too high or too low, in consequence of which the constitution may be transformed into an oligarchy or a democracy. The private conduct of a number of citizens may threaten the harmony of the state and bring innovations into operation. Special officials should have control over this. A watchful eye must be kept on those classes whose fortunes are on a rapid rise. The danger should be met in time, in an endeavor to strengthen the government by giving the other classes a share in it, in elevating the middle class, and by uniting all classes wherever possible, for revolutions germinate in inequality.

As a sickly body requires the most careful nursing, bad constitutions demand the greatest protective regulations. The education of the children in the spirit of the constitution is indispensable to every government and is the most

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important means of maintaining the state. The best laws count for nothing if the citizens are not educated to respect them and accustomed to them from childhood. To educate in the spirit of the constitution is to so educate that one may defend himself as oligarch or as a citizen of a democracy. In an oligarchy it is a mistake to bring up the sons of nobles in idle luxury, while the children of the poor, troubled and hardened, acquire strength and courage to withstand. It is equally bad for a democracy to educate for license instead of for liberty.

The education of the youth in conformity with the constitution must be one of the chief cares of the lawgiver; no less the discipline of women. If the relation of women is not well regulated, one-half of the necessary order of the state is lacking. No state can be good for anything if the women are lacking in virtue. It was a serious fault of the Laconian constitution that the lawgiver who subjected the men to severe discipline neglected regulations for women. An undisciplined, extravagant mode of life of the women brings about a condition in which the highest respect will be paid to wealth and the pursuit of it will become general. In fact, war-like races generally fall under the rule of women. So it came about in Sparta that the licentiousness of women developed greed on a large scale and brought property, the ownership of the land, into ever fewer hands. The custom of giving large endowments, and then the ill-advised inheritance laws, made the disproportion in property still worse: two-fifths of all the land is in the possession of a few women, in consequence of which the country, which could support 30,000 heavily armed citizens has less than a thousand.

In Plato's *State*, Socrates is of the opinion that wives,



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children, and property should all be held in common, so that the state would have complete unity. Unity is not exactly the essential of a state: unity in a family is stronger; stronger still in an individual. The state is in its very nature a multiplicity of different kinds of persons, and because of this manifoldness the state society has everything necessary to life and can be self-sufficient. By all means there must be unity in the state, but only to a certain degree; if it goes beyond that, the state deteriorates—like a symphony when it is simplified to the point of monotony; it is then, in the last analysis, no longer a state. It may also be doubted whether the community of wives, children, and goods is the proper means for the attainment of unity, for unity is the work of love, of friendship, of mutual good will. As a little sweetness in a great deal of water is unobservable, so will the feelings, which are today connected with the name father and son, become too much watered in a communism, since every citizen would have thousands of sons. No one could then properly speak of a wife, child, or house in terms of *mine*; he could only say *our*. Under such conditions all would be equally unconcerned about them, for the human heart is bent upon two kinds of care—what it owns and what it loves. Man is very much concerned with what belongs to him, but to what he has in common with many he devotes little care, and for the very reason that he thinks someone else will concern himself about it—for the same reason that one is often served less efficiently by a large retinue of servants. It is not easy to explain the peculiar satisfaction one takes in calling something his own. Love of self is not accidental, but is a feeling implanted in us by nature. Not self-love, but excessive self-love deserves criticism. The

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self-seeker is justly criticized, but everyone rejoices in his possessions. And how noble it is to be able to give to those we love, to show one's self agreeable and helpful; and this comes from property. The Platonic state neglected two virtues—continencc toward women, and liberality in regard to property. That state is to all appearances very friendly and peaceful; one might be led to think that a wonderful friendship among all was flourishing there at a time when the present evils of society are ascribed to private property, as, for example, lawsuits, the cringing of the poor before the rich, etc.—evils which in reality do not spring from private property, but from the baseness of mankind. Those who possess and use things in common, quarrel with one another much more than those whose possessions are private. Only because at present the community of goods is not a common occurrence do we regard quarrels resulting from it as infrequent. In general one may say that living together, and every kind of communal life, are difficult, but especially in such things as have been described. Men quarrel over nothing. Family servants cause the greatest vexation. Should ground property remain private property, the proceeds regarded as a common good to be consumed in common? Or should property be a common good, managed in common, and the proceeds distributed according to needs. If the fields were not managed by the citizens, but by others who are outside of the political union, the thing would be easier. But if the citizens themselves labor, it is difficult to distribute the labor and the profits equitably; and if this does not occur, the complaint of those who accomplish more and receive less against those who do little and receive much, is unavoidable. It is better to retain private

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property, but to improve and ennoble it through good morals and good laws. Let everyone care for his own, and the mutual difficulties will disappear. And yet goods should, in a certain sense, become common, namely in the sense of the adage, among friends all things are in common. In friendship each permits his own to be enjoyed by others, and enjoys with them their own, as in Lacedæmon every man used the slaves, horses, and dogs of others as his own, and on journeys he was permitted to consume the fruits of the field according to need. Thus will the separate ownership become as a common ownership, and combine the advantages of both. To educate the citizens to such an opinion is the true mission of the lawgiver; through it will develop a real unity of the state.

A proper organization of property relations seemed to many statesmen of old as most important to domestic peace, for out of these relations arose the greatest number of disaffections. Phaleas of Chalcedon first proposed that the property of all citizens should be equal. According to his opinion this could be carried out at the founding of a new state without any difficulty. In the existing states the adjustment was gradually introduced; to this end he commanded that the rich should give dowers but should receive none, and the reverse with the poor. Also the laws of Solon and other lawgivers which forbade one to acquire property beyond a certain amount, or which prevented one from receiving more than a single inheritance or from alienating family property, were likewise aimed toward preventing great differences in property holdings and to maintain the greatest possible equality of possessions. In this connection it should not be overlooked that along with the restrictions upon the amount of property,

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the number of children must also be limited, lest the result be impoverishment which leads to revolution. The law-giver should not, however, content himself with having equalized property, for property equalized may be too great or too small and may, as a consequence, result in a life too luxurious or too miserable. He must aim at a middle course. It avails nothing if he merely establishes moderation in property holdings; he must, above all, bring temperance to the greedy, and that is only possible through the moral education of the people. Equality of goods and equality in education were also promoted by Phaleas; but this cannot be achieved, even if there is equality in education, if that education is of a kind to awaken in each an endeavor to forestall others in riches or honor or in both.

Not only inequality of property, but also unjust distribution of honors, drives men to indignation. The more capable will rebel if, as Achilles complains, "Equal honor is given to the brave and the coward." Want leads men not only to evil deeds, but also to the desire to enjoy life. The greatest crimes do not spring from a lack of the greatest necessity. One does not become a tyrant to protect himself from cold. The peace of the state is by no means secured by preventing petty wrongs. Equality of goods may satisfy the masses, but it will cause the capable to rise in indignation. That the good shall not wish to have an advantage, that the bad cannot have one—that is a condition to be brought about; when it is, there will be peace.

The Laconian constitution which is proclaimed by many as the best is open to the criticism that the entire legal order, the education of the youth, and the discipline of the citizens, is directed to a single virtue, the military.

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Generally speaking, in most states, if the variegated helter-skelter of laws shows any unified purpose, it is the subjection of neighbors. Certainly the art of legislation should consider not only the country and its inhabitants, but also their relation to the neighboring states, and it should see to it that citizens become skilled in war and formidable against an enemy. One who is not courageous and manly in battle will become the slave of every aggressor. The purpose of military efficiency is not to enslave such as deserve a better lot, but to protect them against slavery, or to obtain control of government for the purpose of realizing the general good or in order to compel those who deserve it to become slaves. But it appears that the majority regard the art of war as political. If the government of a state regards the subjection of other states as its ultimate purpose, why should not every individual citizen seek to oppress his fellow-citizens? Let the lawgiver beware what manner of thought he stamps upon the soul of the people.

History teaches that states which are bent only upon war and conquest maintain themselves only so long as they conduct war, but, after acquiring the rule, go to ruin. The citizens of such a state do not know how to live in peace or how to cultivate pure pleasure, and that is the fault of the lawgiver.

Life is war and peace, labor and rest, necessary and useful hardship, and gentle art. One must conduct war to obtain peace, labor to have leisure, accomplish the necessary and useful to attain the noble. The lawgiver must have regard for all these, but preferably for the higher and nobler, for that which serves a purpose. The citizens should be active and brave warriors in their occupations;

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but still more, they should be qualified to cultivate noble leisure. To that end they must be trained. Spirit and perseverance belong to a life of action; to a life of leisure, philosophy; in both, moderation is necessary.

The lawgiver should train citizens to virtue in general and not to any one virtue in particular if he wishes to create a happy and honorable life for them; and that is the aim of the state. The state is perfect to him who fares well; but it only goes well with him whose deeds are good. Virtue, equipped with external goods to the extent of being able to exemplify noble and good deeds, is the condition of a happy life of individuals and of states. For neither through accident nor through force and robbery will one win the highest reward of life, but through great and noble deeds. That requires spirit and goodness. Out of them springs the sovereign virtue.

## CHAPTER III

### THOMAS AQUINAS (1227-1274)

#### INTRODUCTION

**ST. THOMAS AQUINAS**, often called by his contemporaries *Doctor Angelicus* or *Doctor Universalis*, was, with the possible exception of St. Augustine, the greatest mind of mediæval philosophy. He was born in the Kingdom of Naples of a family of old and noble descent. From early youth he was an ardent scholar in all the leading sciences of his time, especially in philosophy, theology, and metaphysics. He became a disciple of the famous scholastic, *Albertus Magnus*, in Cologne and in Paris. In the year 1244 he entered the order of the Dominicans and remained a chief pillar of this powerful organization. As teacher of philosophy and theology he had an ever-growing fame at Paris, Naples, Rome, and other places. He was continually engaged in the active service of his order and frequently traveled in Europe, for his advice was eagerly demanded both in ecclesiastical and in political matters. Especially the reigning pontiff was very anxious to get his opinion upon every problem of great importance. St. Thomas was canonized in 1323 and not without reason, for no other ecclesiastical thinker has had so deep an influence on the policy of the Catholic Church as this real chief of the scholastic philosophy, who in spite of his early death unfolded a prodigious literary activity.



ST. THOMAS AQUINAS





## THOMAS AQUINAS: INTRODUCTION

*It is a very long way from St. Augustine to St. Thomas Aquinas. From a persecuted and hard-struggling church, the Papacy became a splendid, rich, dominant worldly monarchy which claimed to be superior to all secular powers. In its unique and brilliant position the Papacy had no further use for the ascetic, rigid doctrines of St. Augustine, which in their remoteness from the world attacked the very essence of the secular state. In the realm of thought of the Numidian bishop the worldly state was a work of evil, and he likened it to a band of brigands, and asked without fear or scruples, in the spirit of the self-confident, aggressive, early Christendom, how he could otherwise call those states which attack their neighbors on the frontiers and perpetrate robbery on a large scale. This intolerant attitude of the earlier Christian philosophy did not at all correspond to the Papacy of the thirteenth century when it reached an unprecedented power and came into close diplomatic relations with the other responsible authorities of the world. Besides, the whole mediæval world underwent an immense change in its economic, political, and moral structure. In the economic field a far greater productivity was achieved. The Crusades enlivened not only the spirit of commerce, but also of individual initiative and independence. Human society acquired a broader and more general view of contemporary problems, and since the latter half of the twelfth century the complete works of Aristotle had entered western Europe by way of Moorish universities. At the same time a greater consolidation was observable in many of the feudal states, giving to them more stability and more consistency in their policies.*

*In this new world the Roman Catholic Church urgently needed a comprehensive and systematic theory which would put the early traditions of Christianity in harmony with the*

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*exigencies of the world diplomacy of the papal power. This task was admirably accomplished by St. Thomas, not so much by the originality of his ideas or the brilliancy of his analysis, as by his extraordinary gift for combining and unifying very different elements of thought in an apparently logical and convincing system. This endeavor of the great scholastic is vigorously characterized by Bluntschli in saying that his work was an attempt to graft the theological idea of the Church and the highness of the Pope, as a noble twig, on the wild stem of the Aristotelian theory of state. In order to accomplish this task he built a gigantic edifice of thought in which he amalgamated certain Platonic traditions and the whole system of the great Stagirite with the Roman law, the Bible, and the writings of the fathers and the other great theologians of the Church. This systematization and unification of so many different and divergent elements could be obtained only by the famous method of the scholastic, which consisted of astoundingly sharp and subtile definitions of words behind which, very often, no adequate reality existed. For example, St. Thomas has four or five different designations for the idea of law—Eternal, Natural, Human, Divine, and the Ius Gentium of the Romans. By this very ingenious but sometimes imaginary procedure he succeeds in finding at least a small drawer in the immense cupboard of his scholastic philosophy in which to place, in a more or less dignified form, every rule of law and institution with which the new Papacy was obliged to deal. For instance, he could still advocate the doctrine of early Christian communism for Paradise, while at the same time he defended private property here below as a necessity for weak human nature corrupted by the Fall of Man. He could condemn slavery from the point of view of natural law and introduce it as a historical necessity. He*

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*could praise nakedness in the state of nature and the employment of clothes as a matter of exigency. In the same manner, acknowledging as the two chief sources of human knowledge, Revelation and Reason based on experience, he could employ just the argumentation which he needed for safeguarding at the same time all the transcendentalist claims of the Church.*

*The works of St. Thomas constitute a real encyclopædia of the Middle Ages, exactly in the same manner as Aristotle may be regarded as the encyclopædia of antiquity. His greatest work, the Summa Theologica, will always remain the chief treasury of mediæval knowledge and philosophy. Also his political and social principles are partly to be found in this work, but more especially in the De Regimine Principum, which, though not finished, is, along with the commentaries which he wrote on Aristotle's politics, his chief contribution to political science. The underlying thought of all his political analysis is the demonstration of the superiority of the monarchical government and the hegemony of ecclesiastical power over the temporal. At the same time he has a keen sympathy for the people, and his ideal of government may be characterized as a constitutional kingdom. He is an open and vehement opponent of the tyrant and of every rule based on violence. Though he is against the doctrine of tyrannicide, he opposes it rather on grounds of expediency than of principle. He goes even further and, in a case described by Cicero, he admits the legality of killing the tyrant. In his whole political speculation we still feel the atmosphere of the city-state, which was in Italy the dominant form of government even in his day.*

*His economic philosophy is no less interesting than his political, which in its essence remained a commentary upon the Aristotelian. In the economic field his achievement is somewhat more original, treating all economic problems as*

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*closely connected with ethics. This attitude sometimes gives to his speculation a quite modern color, reminding us of the argument of the ethical-socialist school. As Ihering said, he understood perfectly the social significance of morality.*

*The influence of St. Thomas still continues; the famous encyclical letter of Leo XIII, Rerum Novarum, defending the legitimacy and the necessity of private property and criticizing the socialist doctrine, is essentially based on the teaching of the great scholastic.*

*The reconstruction of Dr. Engelmann omits all mediæval controversies and technicalities, emphasizing only those aspects of the teaching of St. Thomas which still have an appeal to the modern mind.*

## THE GOVERNMENT OF PRINCES

**M**AN is a social animal, far more than are other animals. To the latter, nature gives ready food, clothing, and protective weapons; to mankind it gave reason that he might provide for all of these things; but his strength as a separate individual is inadequate to this task. There are animals which from birth seek their food, fly from their enemies, and are able to avoid dangers; but man must first learn how to do these things. What can a new-born child alone do? Cry. Only through the reason and the labor of mankind collectively is it possible to know what is useful, what injurious, and what is necessary to satisfy the needs of human life. Thus men must live together in society where one may help the other, and where each may discover and labor according to his peculiar capacity; in fact, speech was given to man that he might communicate his thoughts to others.

Society would soon dissolve if each member thought only of his own welfare and gave no heed to the common welfare of all. For what is good for the individual is not always best for all. It requires unusual power to work for the common welfare; but as there are differences among men there are divers ways of reaching the same end. If, however, a common end is to be attained, there must be a leader to point the way. Society must have a government.

Government should, above all, secure the peace and harmony of the people. Where there is no peace the benefits of social life are lost, for a nation that lives in

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discord will be crushed by its own burdens. The question, therefore, for a government to consider is, not whether or not peace should be achieved, any more than a physician should consider whether or not he should heal—the question is merely one of means to an end.

The greater the unity within a government itself, the greater the likelihood of achieving unity among the people. For this reason, a government by a single individual is to be preferred to a government by many. In fact, more than one can govern only when they are united in purpose—*i.e.*, when they become as one. *Pastores multi demoliti sunt vineam meam*. History also teaches this; but if the rule of a king is the best government, the rule of a tyrant is the worst. United power is, for evil, as well as for good, mightier than divided power. Of the just governments, monarchy is better than aristocracy, and aristocracy better than democracy; of the unjust governments, tyranny is worse than oligarchy, and oligarchy is worse than democracy. Government is unjust if it contributes to the advantage of the rulers rather than to the best interests of all. The farther it departs from the common good, the more unjust does it become. An oligarchy departs in greater measure from the welfare of all than does a democracy, for the latter seeks the welfare of the majority; the former, the welfare of the minority; while tyranny seeks only the well-being of the tyrant.

It is therefore to be desired that government, if it is just, should be in the hands of one man, for then it is strongest; but if it is unjust, it should be in the hands of many, that they may restrain and weaken one another.

The worst evil of a tyranny is that it suppresses the spiritual development of the people, because it fears lofty

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thoughts, courageous spirits, and friendship and harmony among the subjects; it forbids anything which tends to elevate their moral strength. Under a terrorist government, the people degenerate into slaves and cowards, their manly virtue is lost. Hence the saying, When rogues rule, the people are destroyed.

So, too, as experience shows, a kingly government has the defect that there is a strong tendency to deflect it from the common good inasmuch as the people are not so ready to sacrifice for the common welfare if they see that welfare in the power of another and as something foreign. The people carry heavy burdens more readily when they impose the burden on themselves and choose their magistrates annually. One would hardly believe, Sallust once exclaimed, what power the Roman people developed in the short time after winning their freedom. But afterward their power was shattered by internal struggles, and they lost their freedom again.

There is also the danger that the monarch will rule not like a king, but like a tyrant; but the danger in a tyranny is not less when many rule, for when there are many it is more than likely that there will be one with bad intentions; then the evil is even greater. Contention among rulers disunites the people; peace, the highest good of society, is destroyed. And he who emerges from a rulers' war as victor, usually sets himself up as dictator; so when there are many in authority, it usually ends in tyranny. Rome was long governed by many magistrates, till finally their discord led to civil war and this, in turn, to the rule of cruel Cæsars.

Since, then, monarchy is the best form of government, but may become the worst if it deteriorates, the problem is to guard against its deterioration. Above all, the



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character of the man to whom the government is to be intrusted must be examined. Then his power should be limited so that he cannot transform it into despotism. Should he become a tyrant in spite of this, the people have the right to depose him, even though they at one time submitted themselves to him forever and swore him eternal allegiance, because it was the ruler who broke faith. However, the manner and method by which the despotism is put to an end must be carefully considered so that the cure does not turn out worse than the malady. It is often better to have patience than, through over-hasty rebellion, to rush into a still greater evil. If the rebellion fails, then the tyrant becomes more severe. Or else the rebellion may precipitate civil war. The leader of the people, who has overthrown the tyrant, then seizes the power himself, and in order that the same thing does not happen to him which he did to the other he imposes a still heavier yoke upon the people; and the successor of a tyrant is usually even more severe. Especially to be rejected is the opinion that it is the duty of brave men to risk their lives for the liberty of the people, in order that the tyrant may be put out of the way; it would be wrong if individuals presumed to destroy the authorities of the people. Evil men are much more inclined to such deeds than good men are; but to evil men a good king is no less objectionable than a tyrant. By such methods the people would be more likely to lose their good kings than to rid themselves of their tyrants.

It is the duty of a ruler to provide for the welfare of the people. What is his reward? It is innate in every individual to strive for his own welfare. What is the reward good kings deserve?

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Cicero says, Kings feed on fame. Those who are not satisfied with this, but desire wealth and luxury, rob and defame their subjects. But what of fame and honor? Truly a feeble reward for so much pain and torment. What is so changeable, so evanescent, as human opinion. It is like the grass that withers, the flower that fades. This is not the reward a noble man deserves. Ambition is not compatible with high-mindedness. He who tries to please the people submits himself to their will, becomes their slave. Ambition robs the soul of its freedom, the highest good toward which high-minded men strive. The latter disregard fame and life itself for the sake of justice. Desire for fame among kings brings disaster to the people and kindles war. Hypocrisy is generally allied with ambition. Since it is difficult, and only a few ever succeed in attaining the real virtue which honor demands, the ambitious often become hypocrites. They have the appearance, not the will, says Sallust. It is a calamity indeed when the people have a hypocrite for a ruler. To be sure, in the ambitious ruler there is still a trace of virtue. Since he fears the opinion of the world, he is more to be tolerated than the avaricious or lustful ruler. But to the noble, honor is not something great in which he would see the reward of his virtue. The reward of virtue is happiness. It is man's highest desire; it is the reward of a good deed. Who is more deserving of happiness than one who not only directs himself, but also his people, to the best, who frees millions from poverty and oppression, creates peace for them and points the right way? But how does he attain the happiness due him? He is happy who attains the goal of his desires; but the rich man wishes to become richer or at least to

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retain his riches, and so it is with all desires for external, earthly possessions—they know no end. Therefore, external possessions cannot cause happiness. A prince who succeeds in maintaining his rule against internal and external foes and bequeaths it to his children, because of this alone is by no means to be called happy. But if he rules justly, if he would rather govern his desires than nations, if he is not concerned with vainglory or the flattery of false lips or the opinion of erring men, but rather with the salvation of his own soul and his inner peace, then he will attain happiness. He who strives for this inner glory unswervingly will find it; and the external will also be meted out to him.

It is not easy for the prince to travel this path. It is difficult among courtiers and rogues not to forget that he, too, is only human. Many who maintained noble ideals in a lower condition lost them when elevated to the throne. In governing, man reveals himself. He is justly praised who could easily do evil and still does not do it.

If the people see that the ruler is honestly concerning himself for the common welfare, they love him, for people as a whole are not so wicked as to hate their friends or to attribute evil to their benefactors. The love of the people lends stability to the government, for the people stand firmly by the prince in all danger. "The king that faithfully judgeth the poor, his throne shall be established forever" (Prov. xxix: 14). A government that is hated by the people cannot last. Tyrants seek to base their government on terror; to be feared is their ambition; but fear is not a firm foundation. He who is held in subjection only by fear will rebel at the first opportunity, and this opportunity will present itself sooner or later; for no life is

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spent without difficulties of some kind, and as soon as a tyrant is afflicted the people will rise up against him. Fear itself becomes dangerous if it turns into fear which defies all dangers. No tyranny has been of long duration. But the bad example remains and exerts its influence and makes the tyrant responsible for the misdeeds of his imitators.

It is the ruler's duty to create a happy life for the people, since they united for that purpose. Only a virtuous life can be happy, therefore he must direct them toward virtuous living. These are the duties of the prince: to preserve the peace, to inculcate right actions in the people, to provide the necessities of life in a sufficient quantity; and when he has prepared a happy life for his subjects he must endeavor not only to preserve it for them, but to better it continually. He must guard carefully against the inception of corruption, against the destruction of the peace, and against laziness in the discharge of the public welfare. Since the people to whom he assigns different duties for the welfare of the whole are mortal—indeed, their abilities diminish during their life time—the prince must provide for competent recruits. He must constantly reflect how to perfect all the affairs of the state, and he must not forget the beautiful and the delightful, without which life is desolate. The people need pleasure, but with moderation. Love of pleasure, for the sake of indulging the appetite, leads to neglect of duties, to weakness, cowardice, and inability—in fact, to everything evil; but in moderate pleasure the soul is rejuvenated and rises to new activity.

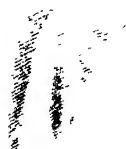
## CHAPTER IV

### DANTE (1265-1321)

#### INTRODUCTION

*DANTE*, the greatest poet of Italy and one of the foremost of humanity, was at the same time one of the most cultured men of his epoch, a great scholar in the mediæval sense who pressed his spiritual stamp also upon the history of political science. He was often portrayed as a mystic, a secluded dreamer, who was only contemplating the divine music of the spheres. In reality he was rather a diplomat, a fighter, a passionate struggler for his ideal.

Dante was born in Florence, his family belonging to the Guelf or pro-papal party. After the triumph of his political group over the Ghibelline or pro-imperial party in 1289, Dante several times held important offices in his native city. Later he became an adherent of the Ghibelline faction. We do not know the intimate story of his conversion, but, considering his immense culture, his broad world view, and the dignity of his personality, we are justified in assuming that this sudden political change was the outcome of his more mature conviction that only a powerful foreign monarch would have been capable of putting an end to all those petty tyrants and selfish princes who were the greatest obstacles to peace and unification in Italy. For we must not forget that the anarchy of the city-states of ancient Greece reappeared



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*in the country of Dante, and that his sensitive, highly imaginative genius suffered cruelly under the eternal intrigues, family feuds, rivalries, and immoralities of this system.*

*Embittered by the bloody anarchy of his country, with other Ghibellines he invited Henry VII of Luxembourg, hoping that the foreign monarch would be powerful enough, to put an end to the intrigues of Pope Boniface VIII, who tried to annex Florence with the whole of Tuscany to the papal estates. Dante regarded with feverish excitement the military expedition of Henry VII against Rome when that prince established peace in Milan, conquered Brescia, entered triumphantly into Genoa and Pisa, but was unsuccessful against Florence. The despair of the poet was so great that in his famous letter to Henry he even gave him strategic advice, arguing that the crown of Italy was to be won on the Arno rather than on the Po and urged the hesitating emperor to crush the rebellious Florentines.*

*However, destiny was against the poet-diplomat and all his plans were frustrated by the sudden death of Henry when he moved against Naples. The victorious Guelf party banished the Ghibelline leaders and their property was confiscated. Their treatment of Dante was even more envenomed, for they charged the genius with baratteria (which meant corrupt jobbery and speculation when in office). Later, with some other Ghibellines, the poet was sentenced to death, and after that time he could never return to his city. A long period of wandering now began for Dante, though he enjoyed the hospitality of many princely courts; especially was he well received at the court of Can Grande della Scala, his great friend and tutor, the tyrant of Verona. During his exile he probably visited the University of Paris and there is also tradition that he made a voyage to*



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*England. With changing political conditions there arose a possibility for the poet to return to his fatherland, but he found the conditions of the amnesty too humiliating and preferred to continue his life of exile.*

*The only work in which Dante treats political problems systematically, his *De Monarchia*, he wrote during that period of his exile when he awaited in exalted expectation the victory of Henry VII. It is, one might say, a kind of a political program which the poet advises the emperor to undertake. His essay is a systematic effort, carried on with all the subtleties of the scholastic method, to demonstrate the necessity of a world empire with the aim of putting an end to all wars and internal feuds. The problem faced by Dante was exactly the same as that which some two hundred years later was treated by the other great Florentine, Nicolo Machiavelli. The attitude of both geniuses was fundamentally the same: both clearly saw the necessity of eliminating the petty tyranny of all kinds of city-states and local rulers. But the concrete answers of the two master minds are totally different: Machiavelli made a concrete, sober, dispassionate, almost scientific proposal—the establishment of Italian national unity. Dante, with the boundlessness of his metaphysical speculation and the deepness of his poetical vision, intended to give a solution, not only for his tormented people, but also for humanity at large, demonstrating the way toward peace and perfection. Therefore, I think that Dunning is wrong when he calls Dante's treatise on monarchy "the most complete and perfect system of imperialistic philosophy." Dante's imperialism has not much to do with the system which we call at present imperialism. At all events, he is much nearer to the imperialism of Kant than to that of Treitschke. His imperialism only means an*

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*endeavor to overcome the political system of his period (which is still our political system), consisting of an anarchy of distinct, independent, irresponsible sovereignties. It is the chief merit of Dante, which makes him perhaps the first conscious consequent pacifistic thinker of the world, that he recognized with perfect clearness the truth (which many people who declaim the cause and effectiveness of the League of Nations and of the World Court seem not at all to realize) that without the organization of a kind of super-state, without a real sovereign power above all the nations, the idea of peace will remain Utopian.*

*It is interesting to notice how in this regard the "eternal peace" conception of Kant is closely akin to the ideal of the poet philosopher. This likeness goes beyond a mere analogy, for the peace speculation of Kant is based on the same assumption as is the system of the Florentine: peace is a postulate of the human soul in its struggle toward perfection, and it is in the divine plan of nature to lead us toward political conditions in which we could freely develop the really fertile and precious tendencies of human nature.*

*In his demonstration Dante uses all the weapons in the arsenal of scholastic distinctions. Nevertheless, his thought has often the poetical vividness of his very intuitive genius. Scholasticism is only an instrument, not the essence of his thought. It has even been contended that he may be regarded as a precursor of the Reformation, in ascertaining that the Scriptures and not the Decretals are the true foundation of the Christian faith.*

*We must also lay stress on the fact that the world state of Dante is not a mechanical absorption of the states, for he has a keen sense for local autonomies and the diversities of national particularities. His standpoint is at the same time*

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*strictly anti-papal. In order to secure a solid foundation for his universal empire, he is naturally obliged to attack the secular power of the Papacy and to advocate the theory that imperial power comes directly from God, without any intervention from the Pope. By this Dante becomes one of the first thinkers who tried to emancipate the state from all kinds of ecclesiastical domination.*

## ON MONARCHY

**F**OR the welfare of the world, it is necessary that all mankind be governed by a single ruler. Let us prove this.

Everything that exists exists for a purpose, and everything has its peculiar purpose. The thumb has its purpose, the whole hand another, the arm another, and the whole body still another. The family is designed for another purpose; and for different purposes the village, the city, the realm; and the ultimate purpose beyond which we cannot penetrate is that for which God, with his infinite wisdom, which is nature, has created the whole of mankind. Humanity in its entirety has a purpose which a person, a family, a city, or an empire cannot accomplish alone. The real function of man, however, is the use of his reason; this is his highest essential power, which no individual or part of a community is able to unfold; only humanity as a whole, working together.

Just as individuals develop judgment through rest and peace, so also is mankind as a whole best able to exercise its real purpose when it lives in concord. The best means of promoting the welfare of mankind is peace. Therefore the heavenly host exclaim, "Glory to God in the highest, and on earth peace, good will toward men." The greeting of the Redeemer was, "Peace be unto you!" This is the highest salutation.

But what is the shortest road to universal peace?

Whenever many work together for one purpose it is necessary that one person guide them. In order that

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children and domestics may get on well—which is the purpose of the family—it is necessary that the father of the house should instruct and command them. A locality where several families live together, in order to provide for themselves mutually, must have its judge, the city its magistrate, otherwise the community dissolves. What is true of the city is true also of the empire, where concern for adequate welfare and peace is far greater; but in order that the empire may not disintegrate, a king must rule over it. “Every kingdom divided against itself is brought to desolation; and a house divided against a house falleth” (Luke xi: 17). Therefore mankind, which has its common purpose, must have its common ruler. The order that is necessary to the parts is necessary to the whole. Mankind is created in the image of God. The more it becomes like God, the better off mankind will be, and it will be more like God when it lives in concord, for it is said: “Give ear O Israel. Our God, our master is the one and only God.” In God alone is the real unity. Mankind will be most united when it unites itself under *one* ruler who guides all, according to equal laws, just as the movements of the heavens follow one law. So thought Boëthius, also, when he said, “How well you would fare, mankind, if the love which rules the universe ruled your souls.”

Where disputes may arise, a judge must not be wanting, else it is badly ordered. Between two princes, of whom the one is not subordinated to the other, disputes may arise through their own fault or the fault of their subjects. Therefore there must be a judge whose judicial power extends over both. If in addition to this one there is another like him, standing outside his jurisdiction, then there must be still another judge who has power over both.

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Thus we arrive finally at the necessity of having a supreme judge whose decisions will put an end to all disputes. Too many princes are an evil. There should be *one* ruler.

The world is best ordered when justice is most effective; but only the Ruler of mankind is able to dispense perfect justice. Like a pure white color, justice is all too easily soiled. It may even meet resistance in the mind of the judge. If the will is not free from all desire, justice, though obtainable, will not remain entirely pure. Therefore, that which can be decided by law should not be left to the discretion of the judge, and it is just to banish everyone who seeks through passion to confuse the mind of the judge; but the judge may lack the necessary power to execute the law. The Monarch who rules over all mankind is the most willing and the most influential in causing justice to prevail. In him desire has ceased; he has nothing left to wish for; only the ocean limits the circle of his power. Therefore he is best fitted for justice, because he is most capable of benevolence, for as justice is extinguished by desire, it is also kindled by genuine love, for love seeks the welfare of mankind, which is best fostered through peace, and peace, in turn, through justice. Therefore love strengthens justice in the highest degree. That the universal Ruler will cherish the greatest love for the people and their welfare follows from the fact that everything worth loving is loved the more the nearer it comes to belonging to the lover and the more it is his work. Since the people only partly belong to the other princes, according to their descent, habitation, language, and so on, they belong to the Monarch of all, as human beings, and since the Monarch of all is conscious of the fact that he is the ultimate source of their welfare, they lie closest to his heart.

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The freer the human race is, the more contented it is. He is free who exists for his own sake and not for the sake of others, said the philosopher, Aristotle. Where the inhabitants of a city exist not for the sake of the mayor, the people not for the sake of the king, there freedom reigns. The mayor and the king are rulers in respect of means, but in respect of ends they are the servants of the others. The Monarch is the ruler of all. In his great love for the people, he desires them all to be good; but this is not possible if they are badly ruled. In perverted governments—so says the philosopher—the good man is a bad citizen. Those governments are perverted in which the power of one or of a minority or of the majority is able to enslave the others. But the Monarch will bring such governments to an end and will bring it about that in the several countries, a worthy king, a group of honest men, or the people themselves, who love freedom, shall rule.

Only he who is himself efficient in governing is fitted to instruct others. Man, in all his activity, creates, consciously or unconsciously, according to his own character. Hence the joy displayed in his work—it is the joy of being himself. One cannot practice one thing and preach another. He deceives himself who thinks he can, with fine-sounding phrases, exhort others to good deeds, while he himself yields to corrupt practices. Actions speak louder than words. The hands of Jacob spoke more than his words; although the voice spoke true, the hands spoke false. "What hast thou to do to declare my statutes, and that thou has taken my covenant in thy mouth, seeing that thou hatest instruction, and castest my words behind thee?" (Psalms 1: 16, 17). Thou, who art other than thy true self, speakest in vain.

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Now no one is better fitted to rule than a monarch. There are two characteristics which the ruler who makes and executes the laws requires above all: wisdom and justice. Therefore the wise King counseled, "Give the King thy judgments, O God. And thy righteousness unto the King's son" (Psalms lxxii: 1). Wisdom and justice both are for the most part destroyed by desire. Therefore the monarch, who of all people has the least occasion for desire, will be the most likely to have wisdom and justice, and consequently will be most fitted to govern and to instruct others in governing.

What one individual can accomplish is better done by one than by many. The superfluous is contrary to God and nature. It is not only better for one person to rule, but that alone is desirable; for many to do it is directly bad. Moreover, it is possible for all mankind to be ruled by one ruler. This is, of course, not to be understood as maintaining that he can instruct every magistrate. Countries and peoples have their peculiarities and must be governed according to different laws. Every country its own laws, applies to the Scythians in the north as well as to the Moors in the south, for their life is different. However, there is humanity as a whole and, accordingly, there are general principles which are fundamental and applicable to all—principles which alone can lead mankind toward peace. These universal principles must be handed down to the several princes by one single ruler, else there is no end to disputes.

Everything that is good is so because of unity. It is well with a man only when body and soul are in harmony. The same is true of a household, a city, a realm, of mankind as a whole. Welfare lies in harmony. Harmony is the



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unity of many wills, their joint action toward one goal. This unity of many wills is possible only when one will governs, where there is one person who rules over all.

These principles of reason are corroborated by experience. Never was the human race so happy as in the time of universal peace under the world rule of Emperor Augustus. Would to God that we were not compelled to see how, from that time to the present day, the world has been despoiled! How much of suffering, of destruction, mankind has had to endure since becoming a many-headed animal!

O human race, sick is thy reason, sick thy sensibilities! Thou didst not heed the principles of reason or of experience, or the gentleness of the divine admonition, "Behold how good and how pleasant it is, for brethren to dwell together in unity!"

## CHAPTER V

### MACHIAVELLI (1469-1527)

#### INTRODUCTION

*MACHIAVELLI was born in Florence and his life was entirely connected with his city-state. From 1494, the date of the first expulsion of the Medici and the temporary restoration of the Republic, until the return of the Medici in 1512, he was secretary of the Council of Ten and developed a very important activity in both the military and the diplomatic field. He was an expert organizer of the militia system and many passages of his works show how clearly he understood the importance of the attitude of armed men. His diplomatic activity, however, had a far more important and decided influence upon his whole scientific work. He undertook numerous missions to petty principalities and city-states as well as several important embassies. He visited the court of Louis XII of France and that of Emperor Maximilian. This visit to France seems to me very important because in the French court the memory of Louis XI must have been still very vivid, and perhaps Machiavelli acquired there some detailed knowledge concerning this monarch who was a real prince before the Principe who by unheard-of cruelty, infidelity, and unscrupulousness succeeded in laying the foundations of a united and centralized France. Another diplomatic visit of his must surely have had a great effect on the future way of his thinking;*

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*in the camp of Cesare Borgia he could admire the type of a vehement, powerful, completely undaunted personality.*

*After the return of the Medici, he found himself in serious straits; according to one source he was imprisoned and even put to the rack. At all events, he was obliged to live outside the walls of his city on his little farm. This secluded, solitary life, without the work in diplomacy and administration by which he was so much delighted, cost him acute suffering and boredom; but posterity must be grateful for this accident to his destiny, because without it Machiavelli probably never would have written his immortal works, the Prince, and the Discourses on the First Ten Books of Livy, for the whole personality of Machiavelli was not that of a scholar, but rather that of a man thoroughly occupied with the struggles of daily life, participating in the movements of his time. In the dull monotony of his exiled life he played cards with the peasants at the country inn, but at night he put on his courtly garments to read his favorite authors. "Thus worthily attired," he said, "I make my way into the ancient courts of men of old, where they receive me with love, and where I feed on that food for which I was born." . . . He was a real child of his grand epoch, the Renaissance, which again discovered human freedom, liberty of great personalities, creative joy in work and fighting, and the beauty and dignity of the state as a marvelous organization in itself freed from all ties of the Church. Such men as Lorenzo the Magnificent, Botticelli, Leonardo da Vinci, and many others renewed before him the glories of the antique civilization. Machiavelli was even more pagan than those famous heathens whom he admired and imitated, for he was a pagan without Plato, without the Stoa, without Natural Right; a man who regarded the will to power as the only real foundation of human society. On the other hand, he had no*



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*sympathy with Christianity and he disliked the revolutionary upheaval of Savonarola, whom he called later the armless prophet.*

*The Prince was completed in 1513 and it is highly characteristic of the period and the man, that he dedicated his work to a member of the dynasty which expelled him—Lorenzo de' Medici—in order to get amnesty and an influential job. And in fact, when Lorenzo became the head of the Republic in 1516 he was recalled from his exile, without, however, regaining the splendor and importance of his former position.*

*—Machiavelli has very often been admired and celebrated as the founder of modern political theory, because he was the first who completely separated politics from both religion and ethics and based them exclusively upon human nature and the reasoning of individuals regarded as entirely selfish. This title to glory seems to us rather doubtful, because he strangled and mutilated a far higher conception of politics, represented by Aristotle, who combines in an excellent manner the natural foundation of the state with the higher elements of a sane political ideal. But compared with his scholastic predecessors, Machiavelli has certainly the merit of envisaging the problems of his own day with his own eyes and of regarding human nature in the awful and disgusting reality of his period. In both of his great works he treats the problem of the maintenance and enlargement of the state, but the Discourses studies it from the point of view of a republic, whereas the Prince, from the point of view of a single autocratic ruler. In the first he describes rather the democratic experiences of antiquity; in the second, the ways and means by which he thought that the most urgent problems of his time could be solved. But, in spite of the estimation of Bluntschli, I think that the greater fame of the Prince is entirely justified, for in this book Mach-*

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*Maciavelli gave something more than theories and speculations; he became a real prophet of one of the most important and powerful movements in human history; the prophet of national unity and national self-determination. Machiavelli is the first conscious interpreter of the idea of Nation and Patriotism, and in this quality he became a really revolutionary force in Europe; and Joseph Redlich scarcely exaggerated his importance in saying that the whole modern history of Europe should be divided into two periods, one before and the other after Machiavelli.*

*In his political thinking Machiavelli was neither a theorist nor a systematizer, but he was a profound empirical psychologist who thoroughly understood the basic motives of the leading politicians of his time and the real needs of the contemporary masses. He stood under the sway of two impressive experiences. One was the anarchy and disintegration of Italy, the lack of any effective organized power against the world aspirations of the Papacy which Machiavelli hated as being the chief cause of the dismemberment of his country. Under such conditions the great Florentine clearly realized that as long as the rivalries among the petty rulers of Italy continued there would be no chance for political unification. The other experience which deeply influenced his thinking was his admiration for those great nation-states which during the career of Machiavelli reached their almost complete unification. The French, the English, the Spanish, thoroughly unified kingdoms, found an exalted admirer in the person of the Italian diplomat, who saw his unhappy country dominated and exploited by foreign dynasties which by their more efficacious and more united powers were easy victors over the Italian anarchy. Under the hypnosis of these two historical experiences, intensified even more by the gloomy impressions of*

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*his solitary exile, Machiavelli became perhaps the first conscious patriot in the world, because that process of national unity, which in the west was rather a slow and semi-conscious evolution, became in the tormented soul of Machiavelli a clear and burning intellectual vision.*

*This vision gave the keynote to his whole political philosophy. How could he get unity and concentration for his lacerated country? How break the domination of those numerous petty tyrants who divided his country into small, impotent, territorial rules? How unite the political and military forces of his humiliated people into a single effort sufficiently powerful to expel the foreign intruders from his fatherland? . . . These were the real problems of Machiavelli's political investigation; and with his deep knowledge of the actual political conditions and with his clear insight into the psychology of his contemporary diplomats he did not pursue chimeras as Thomas Aquinas or as Dante had done (for he knew very well that neither the pope nor a foreign emperor would be interested in a real unification), but he saw very clearly that the unique way of building up an Italian nation-state was to have one of the Italian princes become enlightened, and at the same time sufficiently powerful to oust all the other princes and unite the whole country under one domination. That is the plan which he elaborated in his Prince with so much vigor and audacity; and having this plan, he could not choose other means than the diplomacy and international politics of his own period. In an epoch of an almost complete private and public immorality, the exiled thinker could not recommend other political methods than those which were generally practiced both in Italy and outside of Italy. His only crime, for which he was stigmatized by the political hypocrisy of later times, was that he became, one might say, the*



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enfant terrible of his age, describing and recommending all those methods and practices which were in hidden use during many centuries. His prince, who should be "a lion and a fox," was not an invention of Machiavelli's imagination, but the daily experience of his life. His only originality was in making a system and a political maxim out of the diffused usages of diplomatic criminals. Even today the spirit of Machiavelli continues, and J. A. Hobson is quite right in saying that "The Machiavellian doctrine of reason of state is, in the last resort, the accepted standard of national conduct," the only difference being that in our day the game has become far bigger and the individual crime has lost its significance, though in some of the present states it is still widely accepted.

It was not the private immorality of Machiavelli which induced him to his terrible precepts. On the contrary, everything which we know about the personality of the Florentine justifies the assumption that he was very much above the average morality of his epoch. He himself gave the motivation of his political philosophy when he said that one who would apply the so-called good maxims among criminals would surely perish. He was not even an ardent adherent of the monarchical form of government. Just the contrary is true. Many passages of his works clearly demonstrate that his heart was entirely on the side of the people and he regarded the Republic as a far superior form of political constitution. But Machiavelli, the consequent and keenly conscious Realpolitiker, had no other choice in his day, the forces of democracy being at that time entirely lacking or undeveloped. In his fundamental thinking concerning the unifying rôle of the Prince, Machiavelli was perfectly right; even some four hundred years later the forces of Italian democracy were entirely inadequate for the unification of the country, and the chief

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*task was carried on by the Prince of Savoy, in combination with the democratic forces. On the other hand, it was the great mistake and short-sightedness of the Italian diplomat not to see that violence in itself is absolutely incapable of fulfilling any political aim, unless protected by the necessary intellectual, moral, and economic forces.*

*In this way the great patriot became the propounder not only of an immoral but even of an untrue doctrine. At the same time by the passionate and enthusiastic glorification of political crime he must bear the responsibility of having made, from the diffused crimes of isolated princely criminals, a compact philosophical doctrine which corrupted public opinion in many parts of the world and which envenomed still more an unscrupulous political practice.*

*Professor Dunning has portrayed this whole doctrine as an early expression of imperialistic policy, but it may be doubted whether this description is an adequate one. It seems to me that nationalism and national unity are far more striking in this system than its analogies with imperialism. One might say that Machiavelli is only an imperialist to the extent that he had no other choice in planning national unity than by way of territorial and political expansion. But in this sense Mazzini is also an imperialist; yet everyone will agree that Mazzini has nothing in common with the essence of imperialistic expansion. The last chapter of the Prince, "Proclamation to liberate Italy from foreign rule," might well be regarded as a symbolical subtitle of the Prince, announcing the chief thought and aspiration of its author.*

*Another suggestion of Professor Dunning seems to me far more pertinent concerning the method of Machiavelli. It is perfectly true that his much vaunted historical method, the comparative one, is almost entirely lacking in his demonstrations.*

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*Machiavelli only gives examples and quotations in order to reinforce the really powerful feature of his talent—his deep insight into the practical mode of thinking of political leaders. Surely he did not have a sufficient knowledge of the better aspects of human nature; but the great Florentine might object to this accusation by saying that the leading statesmen of his period were lacking in those qualities.*

*As has already been emphasized, Machiavelli was not a systematic political writer and he has not a complete theory of politics. However, his eye of genius very often observes such aspects of political reality as have become salient points in some of our modern theories. For instance, in the estimation of the social and political functions of religious life he is a precursor of all those modern materialistic doctrines which consider religion as the chief instrument of class domination. In this connection he is eminently anti-Christian (surely an outcome of his hatred of the Papacy) in asserting that Christianity had "emasculated mankind and disarmed Heaven." At the same time he made the Church responsible for there being fewer republics and less liberty in his age than in antiquity.*

*There are also some interesting passages in his work in which several leading principles of the historical materialism of Marx are anticipated. He realized thoroughly the importance of class struggle in human society and he demonstrated emphatically the antagonism between the few rich men and the many poor. At the same time he advocates a policy by which the state should consciously and systematically alleviate the harshness of class antagonism. These suggestions make Machiavelli a real Kathedersozialist of the German type who regards the state as the chief instrument in maintaining the equilibrium among the contending classes. His materialistic*

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*psychology is also very near to the conception of European socialism of the Marxist observance. Perhaps no eminent men in political thought, with the exception of Hobbes, had a more pessimistic and dark opinion concerning the moral possibilities of our race. The passage in which he admonishes his Prince rather to kill the fathers of his enemies than to confiscate their property, because human nature forgets murder sooner than robbery, will always remain the most lugubrious estimation of human souls.*

*The influence of the Prince was very great upon later generations, and even now the founder of the philosophy of the Staatsraison is often quoted as a revelation of truth by the adherents of the Machtpolitik, especially by Fascists and Bolsheviks. Even a princely philosopher, King Frederick of Prussia, was deeply influenced by the thinking of the Florentine. He wrote his famous book Anti-Machiavelli against his dead counselor, but later he showed himself as his ardent disciple in practice. The proper place for Machiavelli's work is still hotly debated. Perhaps the best final estimate is that of the German historian, Ranke, who wrote these significant words: "He sought the healing of Italy, but the situation of it seemed to him so desperate that he was bold enough to prescribe poison for her."*

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**T**HE prince may have inherited his principality or have acquired it himself.

The people show a natural preference for the heir of an old ruling house. Accustomed to the rule of his family, they cease to envy him; such a prince seldom has reason or occasion to give offense to his subjects; therefore he is beloved. However, he must not tamper with the old order. A prince who has newly won his principality is in a much more difficult position. His elevation offends many, and only with difficulty is he able to satisfy the hopes and claims of his friends and allies; nor is it easy to approach them with befitting sternness, and in order to safeguard his power he is compelled to impose military occupation and other burdens.

When a prince adds by conquest to his hereditary possessions a new province having the same language and customs as his own, then the old and the new possessions are easily welded into one. The family that ruled the province formerly must be destroyed. There should be no changes in the laws and customs and especially no levying of new taxes. To rule a province having a foreign language and strange customs requires great effort and it is only by good fortune that it is kept at all. It is advisable for the prince to set up his dwelling in the conquered territory; then he can discover rebellion at the start and nip it in the bud. For this evil is like many maladies—hard to detect at first, later difficult to cure. The presence of the

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ruler also serves to hold the ministers in check, so that they cannot pillage the people. If the ministers are just, the credit is ascribed to the prince; if they are severe he is feared. Moreover, if he resides there, external foes are not so daring in attacking the territory in order to wrest it from him. It is advisable also to establish military colonies in divers parts of the province, according to Roman example. Such colonies cost the prince little. The subjects deprived of the land are not numerous; they are scattered and poor and they cannot harm the prince. The great majority who keep their land intact are contented and will remain quiet in order to avoid similar treatment. On the other hand, the military occupation of the whole country with garrisons of all sorts consumes all of the revenue and more, the quartering of the soldiers injures and offends the majority of the subjects and makes them enemies to all the household.

The conqueror should keep a watchful eye on the neighboring princes—take an interest in the weak prince and endeavor in every way to weaken the strong. He must especially guard against anyone, whose power approaches his own, gaining a foothold in his country. If a powerful stranger penetrates the country, the smaller potentates will willingly ally themselves with him because of hatred and jealousy toward the one who was formerly the most powerful, and they will readily help to overthrow the latter. This also is a principle that seldom fails: he who makes another great, destroys himself. The upstart entertains suspicions toward the one who elevated him, fears his power and rivalry, and endeavors to get rid of him.

A territory that is governed by an unlimited monarch is

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difficult to conquer, but, after the conquest, easier to hold than a country in which, besides the prince, there are still other nobles who since time immemorial have shared the power. He who attacks the territory of an unlimited monarch cannot count on internal support from the ministers. These, as a body, are creatures of the prince; they do not revolt and are not easily bribed; and even if they were, it would be of no avail, since they have no adherents among the people, who consider them merely servants and cherish no love for them. But if the conqueror succeeds by his own strength in destroying the entire forces of the ruler and in exterminating the ruling family, then he has no one else to fear. It is different in a country where the nobles, not having been created by the favor of their ruler, possess their own, ancient, hereditary power and where each has, so to speak, his own state and subjects who regard him as their real master. It is easy to find among these nobles dissatisfied individuals who will assist the conqueror with all their adherents; they may even summon him. But after the conquest they give him much to do, even those who helped him as well as those yet to be subjugated.

Cities and countries that were accustomed to the authority of a princely dynasty are scarcely able to agree, when this dies out, upon choosing from their midst a successor; they submit willingly to the conqueror. On the other hand, when a free city that governed itself is conquered, neither time nor benefactions serve to make it forget its lost freedom, its self-imposed laws. The name, freedom, continually serves as a pretext for rebellion. It is best for the conqueror to grant such a city its own laws, to content himself with a tribute, and, for the conduct of the govern-

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ment, to appoint several citizens from their own midst, who will exert themselves to confirm his power, in order to retain their own.

He who has set himself up as ruler by means of his own power, has to contend with one difficulty in particular; he must, in order to safeguard his authority, usher in new laws, a new constitution. That is always dangerous. Those who found themselves well situated under the old régime become violent opponents of the new, and those to whom the new government is advantageous defend it only mildly, through fear of their opponents and a general lack of confidence. The majority of people have little faith in governments which have not stood the test of time. People are vacillating, easily persuaded, and at the same time hard to make constant. Therefore when the people lose faith in the new government, the ruler must have the power to restore their confidence—he must organize his government accordingly.

He who has been made ruler by good fortune will only be able to assert his authority if he is a man of genius. One who has always lived in private relationships does not easily understand how to rule. Ability alone does not suffice; he must have an army which is faithfully devoted to him. He must disband the old army which is not submissive to him and create a new one; he must win friends and clear his enemies out of the way; he must be both stern and magnanimous in order to make himself loved and feared by his people; he must obtain the friendship and the respect of other princes, so that they will oblige him or at least guard themselves against offending him. In such a manner he will be able to establish firmly the authority which good fortune brought him, inasmuch as he achieves



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that subsequently which those who won the mastery by their own strength accomplished in advance.

Also, one may gain the mastery through crime, murder, breach of faith, and vicious deeds. Mastery, indeed, but no real fame.

The favor of one's fellow-citizens may elevate one to the position of ruler, and indeed it may be the favor of the nobles or the favor of the people. Every state divides itself into the oppressors and the oppressed. If the people resist their oppressors most vigorously, then the nobles choose a prince, so that, in his name, they may exert power more boldly; and when the people see that they cannot defend themselves alone, they choose a protector. The prince who depends upon the nobles maintains his position with greater difficulty than one who is chosen by the people; for the nobles surrounding a prince think themselves his equal, obey against their will, have claims which he cannot satisfy reasonably, and, suspicious, deceptive, thinking only of their own advantage, they are always ready to conspire against him and to ally themselves with someone else who has prospects of victory. Moreover, no ruler can assert his authority if the people are hostile-minded toward him. The people are numerous, the nobles are few. The prince can rid himself of the nobles, but not of the people. So, too, the prince who has become ruler through the support of the nobles must seek above all else to win the people to himself. Let him protect them, and they will be all the more thankful, since they expected nothing good from him. The people are easier to satisfy than the nobles: the latter wish to oppress; the former only wish not to be oppressed. The affection of the people is the support of the ruler in distress.

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The saying that he who depends on the people builds on sand is true only in the case of the private individual who depends upon the people to protect him against the magistrates or against his enemies. But a prince who shows himself courageous in distress, and who knows how to rule, will not regret that he has builded upon the love of his people; and when a prince rules so wisely that the subjects need him, then he is sure of their fidelity. But princes who have fled before their enemies, feeling assured that the people would call them back, have deceived themselves most bitterly. He who loses his courage is lost.

Good laws and a good army are the firm foundation of every government. Good laws without a strong army amount to little. The ruler must, above all else, create an army of his own. It is better to be killed fighting with one's own arms than to be victorious with foreign arms.

The army of the prince should consist of his own subjects, not of foreign mercenaries. Let a new ruler arm his subjects and he wins them over, and the weapons in their hands become his own. Confidence also makes opponents loyal subjects. He, however, who disarms his subjects, makes himself hated. Foreign mercenaries do not serve for love, but only for pay, which surely is not sufficient to make them willing to die. At home uncontrollable, cowardly in the field, they plunder the country in peace and desert it in war.

The prince must dedicate himself with all earnestness to the art of war. It is the one important thing which he must understand. It is this knowledge which elevates him to the position of ruler and maintains him as ruler. To neglect the art of war is to tread the path to ruin. To enrich this art with new inventions means fame for the

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prince. The ruler who is unskilled in the art of war is not respected by the soldiers. Experts do not want to obey the non-expert. He does not have the army under his control, therefore he cannot depend on it. A disarmed master of armed subjects—this is not consistent. He fears them; they despise him. On the other hand, an excellent and faithful army is built up with good soldiers, provided their master knows how to command and prize them. And if the prince commands a good army, he will have friends within and without.

One who sets out never to be anything but good at all times, would go down to ruin among so many wicked people. The prince who wishes to maintain his position must also understand how not to be good, when the occasion demands it. Let him not shun the reputation of being cruel, if it is necessary in order to keep the subjects obedient. It is more humane to punish a few disturbers of the peace with death than to allow disturbances to increase which later would cause more bloodshed. A new ruler, in particular, is scarcely able to avoid cruelty. It may be employed, however, to good and to bad advantage. It is, so to speak, well employed, if the prince practices it once and for all, driven by necessity and because of his own safety, but shows himself afterward to be clement and well intentioned. All unavoidable injury should be inflicted at one stroke in order to have done with it. He who timidly deals otherwise makes poor use of cruelty; he does not give the people a chance to quiet down, nor does he succeed in winning the confidence of the people through benefactions; therefore he will not be able to trust the people himself. But let the good be done gradually, so that it may taste all the better. Good, as well as evil,

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must be done at the proper time, not according to change of fortune. When one is in distress, he can no longer revenge himself, and the good that he does of necessity will not have great value attached to it.

The prince must see to it that he is both beloved and feared. If he must choose one of the two, it is safer to be feared, for people are ungrateful, false, cowardly, and only interested in their own welfare. They are ready to sacrifice everything for their prince, so they solemnly declare, as long as they need him and danger is remote. In distress, however, when he needs them only a few offer themselves. The bond of love and gratitude is quickly torn by selfishness. Fear is of much longer duration. People like or dislike according to their fancies, but fear is dependent upon the conduct of the ruler. The wise prince relies only upon that which depends upon him, not upon the whims of others. However, the ruler must guard himself against being hated. That he will be, especially if he robs his subjects of their possessions or of their wives. A man will sooner forget the loss of his father than the loss of his property, and when one begins to rob, it is difficult to desist, and occasions and pretexts for doing it are always found. This is true less of the shedding of blood. If the prince is compelled to condemn one to death, let the sentence be well founded and no property confiscated. In the army let him maintain discipline with pitiless severity.

It is fine if a prince is praised as being generous. In this, however, he incurs the danger of dissipating his property. If he becomes poor, he becomes despicable. If he then seizes the wealth of his subjects, he is hated. Generosity has made him few friends, but countless enemies.

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Therefore, let him rather be sparing of his wealth; but let him divide the spoils of war magnanimously.

History teaches that only those succeeded who did not shun deceit, and breach of faith as well; while those who always dealt honestly fared badly. The prince must be both fox and lion. He must break his word if under changed conditions it would injure him to keep it! To be sure, this would be a useless maxim if people were good; but they are, as a whole, bad and faithless. A pretext is never lacking for excusing breach of faith.

Therefore it is not necessary that a prince be absolutely honest; it would even, indeed, be dangerous; on the other hand, it is expedient for him to have the appearance of possessing all virtues. Let him always speak so as to give the impression that he is goodness, constancy, justice, and the very incarnation of honesty itself. The majority judge according to appearances; the number of discerning is small and inarticulate. The actions of a ruler are not judged; only the results. If he has succeeded in maintaining his supremacy, then the means employed are praiseworthy.

A prince who is timid, vacillating, cowardly, or feminine is despised. A ruler must always appear brave and firmly determined. The subjects should know that his decisions are irrevocable. This creates respect. He wins fame for himself through large undertakings which keep the people in suspense, and through exceptional deeds which are much discussed. Let him attempt in every dealing to have the appearance of highmindedness. Let there be an air of greatness in all his enactments. Let him show himself magnanimous in friendship as well as in enmity, in rewarding as well as in punishing. Benevolences let him

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distribute himself, but delegate punishments to the magistrates. It will redound to his credit if he honors exceptional men, distinguishes artists and inventors, if he promotes commerce and trade and elevates the condition of his people. Let him show himself occasionally in the meetings of the guilds and conduct himself graciously and worthily.

If the prince is respected and not hated, he need fear no conspiracy, for then the conspirators cannot expect the people to justify their conduct, and that deprives them of their courage. On the side of the conspirators are suspicion, avarice, uncertainty; on the side of the ruler, majesty and law. Add to these the love of the people, then no one will be so foolhardy as to attempt a conspiracy. No fortress protects a prince so securely as the love of his people. No fortress protects him against the hatred of his people.

A wise prince makes an effort to lessen class struggle, to check the haughtiness of the nobles toward the common people, as well as the hatred of the common people toward the nobles. It is an indication of weakness in a ruler if he fosters the party struggles of his subjects in order to govern more easily those wrapped up in their quarrels. It leads to nothing good; if the state is attacked from without, one party is sure to ally itself with the enemy.

If the prince is unable to avoid bringing upon himself the hatred of one party, he must take care not to make the strongest party his enemy. Nowadays, however, the people are the strongest—stronger than the nobles, stronger than the soldiers. He must therefore keep the people contented.

If that party on which the ruler must depend is evil and corrupt, he must nevertheless yield to it if he wishes to

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maintain himself, and he dare not allow himself to be good; he would thereby make himself hated. The army wishes to possess a militant, aggressive, cruel master. The people, on the other hand, desire to live in peace and long for a gentle prince.

Often those who were hostile toward the prince at the outset have rendered him more service later on than those who at first were his friends. If his opponents need his help or favor, he can easily win them over, and then they will serve him faithfully and zealously in order to obliterate the past. A prince who has destroyed the old régime with the help of a part of his subjects can more easily win over those who were a part of the old régime than keep his adherents satisfied.

When two powerful neighbors wage war against each other, the prince should champion the cause of one and, mustering all his strength, take part in the war. If he maintains neutrality, he will be left without a friend and become the booty of the victor. If, however, he has taken part in the war and his ally is victorious, then the latter, although more powerful, will feel under obligation to him; and if they have lost the war, the ally remains his faithful partner. If the prince does not need to fear either of his militant neighbors, because he is more powerful than they, he ought, nevertheless, to interfere in the war, in order to destroy the one and to make the other dependent upon him.

To claim the assistance of a greater power, in order to attack a third—this is dangerous; the prince must beware of this. Thereby he surrenders himself to the power of the more powerful. Such a step may be taken only in dire necessity, when there is no other way of escape, and for the

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sake of avoiding a greater evil, for, so goes the world, one seldom escapes one evil without running into another. Wisdom demands only that one choose the lesser—but the choice is never safe. Let the prince note this also: to postpone a war is not to avoid it, but rather to give aid to the adversary. A war that is necessary is also just. It is a pious act for a people, having no other recourse, to take up arms.

The capacity of a ruler may be judged by his choice of ministers. He will be considered wise if his ministers are gifted and faithful. He cannot be judged favorably if he has made a bad choice. Even if the prince is not a creative genius, but is able to judge whether the advice and actions of his ministers are good or bad, it will be sufficient if he keeps them under his control and holds them to good acts; for without compulsion to do good, all people tend toward bad. A minister, observed by the prince to be more interested in his own affairs than in the welfare of the ruler, should be dismissed immediately. He who occupies himself with matters of state should not think of his own affairs. On the other hand, let the prince make it his duty to reward a faithful minister with all the honors and treasures he could wish for himself.

So many princes have been destroyed by flatterers. Against flattery he can best protect himself by showing that he is not offended if the truth is told him. He would lose respect if he allowed everyone to tell him the truth. The correct, middle path is to allow several select, wise men to tell him the truth frankly whenever and upon whatever he questions them. Let him question them about everything and let them feel that they satisfy him only when they speak opinions freely. The prince must be an



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ardent questioner and a patient listener. After hearing the opinions of the advisers, let him make his decision and maintain it. Only he who is unwise refuses to take good advice. Through the wisdom of the ruler, wise counsels will prevail.

The people are quick to recognize whether a new ruler governs wisely, and the allegiance of the people is guaranteed far more by his own merit than by his line of ancestors, for people concern themselves much more with the present than with the past.

A prince who depends on good fortune is ruined when it turns against him. When conditions change, his conduct must change also. Therefore, it often happens that a ruler who has ruled cautiously and discreetly for a long time, is ruined when times come in which only bold force leads to results; but it is seldom that one understands how to change his conduct to suit altered circumstances, for each has his natural inclinations and it is difficult to decide to change a course which has been successful in the past. In general, it is better to proceed boldly rather than cautiously. Fortune is like a woman—it loves the young and the daring.

These precepts are taught by history, more especially by the study of the lives of great men. Let the prince study history zealously and take great men as models, so that, if he cannot equal them, he may at least become like them.

## CHAPTER VI

### THOMAS MORE (1478-1535)

#### INTRODUCTION

*THOMAS MORE*, or *Morus* in the Latin texts, was born in 1478 in London. His father was a judge on the King's Bench. He received a very careful education in the house of the Archbishop of Canterbury. In Oxford he made extended studies, especially of a humanistic nature. During his college years he became acquainted with Erasmus, one of the most famous humanists of the epoch. This acquaintance grew into intimate friendship and fostered the interest of the young English scholar in the "new learnings." His humanistic ardor, however, was often counterbalanced by an almost fanatic religious passion. At the age of twenty he was seized by a violent attack of devotional rapture in which he practiced the discipline of a Carthusian monk. He wore a harsh shirt of hair next his skin, scourged himself every Friday and other fasting days, lay upon the bare ground with a log under his head, and allowed himself but four or five hours of sleep. Fortunately, young More soon regained his moral equilibrium and he was definitely cured of his ascetic tendencies by a happy marriage.

He studied law in London, and when the Parliament was again convoked by Henry VII after a lapse of seven years he became a member of it and led a strenuous fight against the

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*budgetary demands of the King. After having been under-sheriff of London, he was called by the new King Henry VIII into his court, where important offices were confided to him. At the beginning of the new reign he enjoyed a great many princely favors. He was knighted and became a member of the Privy Council. His career became even more brilliant when some years later he was appointed Treasurer of the Exchequer and became Speaker of the House of Commons. Also in the field of diplomatic missions he developed a very acknowledged activity. In 1529 the King made him Lord Chancellor, the first man in this office not belonging to the clergy and not being a member of the high nobility. There was a constant endeavor on the part of the King to gain the favor of More, who was equally famous as statesman, as an incorruptible supreme judge, and as author of Utopia, a book which had a great influence in all the progressive and reformist circles. By his appointment the King made, at the same time, a concession to the rising popular party.*

*But Thomas More was far too proud, independent, and courageous to tolerate the tyrannical attitude of the King, and when the conflict of the King and Parliament and the Pope began, on the occasion of the first of his divorces, his opposition and attitude made the monarch his enemy and he resigned in 1532 from the office of Lord Chancellor. This antagonism to the King became even more conspicuous when he was unwilling to take an oath to subscribe to the so-called Succession Act, a law declaring the first marriage of the King illegitimate and the second valid. As a consequence of his strong and outspoken opposition, he was imprisoned in 1534. This conflict with the King later became more embittered and finally tragic, for when an Act of Parliament was passed declaring the King as the head of the newly formed national*



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*Church and gave the King the right to demand an oath from everybody acknowledging his supremacy and to declare that the denial of such an oath would be regarded as high treason, More was disinclined to abandon his conviction and refused to swear. In consequence of this courageous and magnanimous attitude he was committed to the Tower and after a close and cruel imprisonment of more than a year he was sentenced to death by a packed jury which based its judgment on the perjury of the Solicitor-General.*

*The political theory of a man of such broad parliamentary and diplomatic experiences, of such a high-minded attitude and of such a character, deserves without doubt the attention of posterity. Really his book, published in Latin in 1516 under the title De Optimo Reipublicae Statu deque nova Insula Utopia, is a very remarkable document of original and independent thinking and became the model of a long series of political writings treating social problems in the form which More introduced. Utopia was a fantastical island beyond America which the English philosophic dreamer chose as the imaginary land of the society of the future. The statesman who saw all the horrors and disgraces of the Tudor absolutism described in his political novel an ideal community, freed from all the shackles and yokes of tyranny of the historical state. The later Utopians—Campanella, Harrington, Cabet, Bellamy, and the others—all followed the steps of More in giving a constructive description of their ideal visions concerning the future state.*

*The Utopian state of Thomas More is like the Republic of Plato, a communistic state, but it represents a far more democratic kind of communism. The state of More was no longer the communism of Plato's guardians, but the communism of the simple working-people of the England of the*

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*Tudors. The idealistic communism of Plato becomes, in the writing of More, a strictly socialistic communism in the sense that the English statesman is exclusively interested in those nameless masses for which the Greek aristocrat had so little respect. At the same time he differs from Plato in maintaining the individual household and the individual marriage.*

*The atmosphere of Utopia is already the atmosphere of European socialism based on the antagonism of the rich and the poor, on class struggle, and on the claim of an absolute practical equality. The present order of the state he calls "an alliance of the rich people to serve their advantage under the protection of the law and to appropriate the fruits of the labor of the poor." . . . "The rich do not in Utopia diminish daily, by their very existence, by all kinds of trickeries and laws, the wages of the poor; the Utopian state guarantees a secured existence for all capable of work and for the invalids." This vision of the communistic state sounds quite modern and this analogy is also valid in the minor demonstrations of Thomas More. He is an ardent persecutor of money, gold and silver, and he would use these noble metals only for very base functions in order to destroy their dignity. All the other claims of modern socialists can be found in their germ in Utopia. It is even curious to observe that some of the present methods of the Bolsheviks were already recommended by the English ex-chancellor. Thus, for instance, he advises that the monetary riches of the communistic commonwealth should be applied to foment revolutions in the antagonistic states and to corrupt through them the leaders of inimical states.*

*It has sometimes been asserted that the Utopia of More must be regarded as a satire in a rather fantastic form of the social and political conditions of his epoch. I think this*

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*opinion is without any foundation: a few satirical excursions do not make a satire of the whole work, which is a serious endeavor to construct, in the form of an ideal experiment, a better state. On the contrary, the reader is rather struck by the far-going analogy between the state of More and that of Plato and the modern communists. It is interesting to observe that the problems of both are essentially the same, demonstrating that in spite of the radical changes in the social and political environments there is an essential identity of aims, methods, and solutions in all communistic endeavors. Aside from the points which we have previously noticed, More also faces the problem of the compulsory regulation of population and the duty to work. He tries to avoid the principle of compulsory labor (the point on which every communistic system must inevitably break down); but his opinion is vacillating, as is that of all communists who try to eliminate this logical consequence of state production and distribution. He hopes that religious zeal will guarantee the right performance of all kinds of necessary labor.*

*Beside his communistic speculations More approaches other problems in which he offers original and interesting solutions. He may be regarded as a precursor of the modern criminologist, asserting that instead of punishing the thieves, the causes of theft should be eliminated. At the same time he clearly states the Benthamite principle as the foundation of state policy, and the theory of religious toleration is one of the corner stones of his system.*

*The political system which brought the eminent Utopist to his death, a century later found an ardent promoter and protagonist in Thomas Hobbes who demonstrated how the same political situation may receive a radically different treatment by men of antagonistic temperaments and morality.*



## UTOPIA

A COMMONWEALTH in which private property exists can be neither just nor happy. A few—and in truth the worst—are in possession of most of the property, but, in spite of that, are not happy, while the masses live in misery. There are numerous laws, and new ones added daily, so that everyone may know what is his own, how he may acquire ownership and how he may protect it—yet in spite of all, there is no end of conflict.

Equality of property is the only means by which to attain the general good, but this is not possible where each owns his property. There will always be the good-for-nothing scoundrels who will find pretexts and means for amassing large possessions, and the greatest and most useful part of mankind, those who labor more for the general good than for their own well-being, will be without the most essential necessities. The evil may be mitigated, but not removed. One ulcer heals, but another is formed. Only when ownership is abolished can goods be divided equally, justly, and for the happiness of all.

The reader may object: On the contrary, will not the greatest misery prevail if everything is held in common? Will a person work when he does not acquire for himself? Even if driven to work through necessity, will not an eternal war rage between the industrious and the lazy? Would officials anywhere have any authority to create order and peace?

In answer we will describe, in its main outlines, the

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constitution of the state Utopia, based upon the community of goods.

In Utopia every man and every woman is taught a trade and must work six hours a day. Aside from the special calling, each is instructed from childhood in agricultural labor and must serve two years on farms. Each city has an area of land surrounding it, the products of which are delivered to the city storehouses; the land-district, in return, draws what it needs for industrial production from the city storehouses free of charge. The city sends into the country district those pledged to farm service and also the necessary laborers during harvest time.

The children generally learn the trades of their parents, for which they have a natural bent. They are not forced thereto—if they wish to learn another trade, they are transferred by adoption to another family where that trade is practiced. In this manner the condition of those families that have few children and those that have many is equalized. Adults are also permitted to take on a new calling if it is better suited to them than the one in which they are engaged.

Parents, children, and grandchildren live together in family houses. Every ten years the families change their dwelling-houses according to lot. The family obeys the oldest (whose spirit has not yet weakened). Thirty families together choose an overseer whose chief duty it is to see that everyone does his work.

In the spacious houses of the overseers the families meet together for their common noon and evening meals. Three hours before noon and three hours after noon are spent in labor. The cooks draw from the market hall their daily needs. The best is given to the hospitals.

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Each one may, indeed, cook for himself, but it is not worth the trouble and it is inconvenient. The family heads apply to the storehouses for clothing, furniture, and all necessary objects, and these are at once delivered to them free of charge. There is no fear that they will demand anything unnecessary, for no care about the future forces them to do so; and everything is under the inspection of the public. Avarice springs from fear of want and from a false pride which aims to surpass others. The organization of the Utopian state does not permit these sentiments to appear at all.

Daily, before beginning work, lectures are given, to which there is free admission to all. After work, one may likewise enjoy public music halls, and light and serious art.

He who in early youth shows a special gift for science and art is relieved of manual labor in order to devote himself to his higher calling. Also adults, who have employed their leisure for the study of art or science with success, may enter the learned and artistic profession; on the other hand, he who has not lived up to the hope placed in him will again be put in the rank of the workmen. The number in the learned and artistic profession is small. Only the worthiest are selected, upon the proposal of the teacher, the overseer, and the priest, with the consent of the people. From this class all higher functionaries are chosen.

Three hundred families together elect a director who supervises the overseer and who is a member of the city council. The overseers are chosen every year and the directors are also elected annually, but they are reëligible. He who unduly seeks an office is declared unworthy of every office. The principal duty of the council is to regu-

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late production and consumption. It also exercises judicial functions and maintains peace among the citizens; but there are in this state very few occasions for conflict. The overseers are alternately drawn to the sessions. Important affairs are participated in by all overseers; these consult with one another and with their families, and report to the council upon the wishes of the people. The overseers also elect a mayor of the city, from four men, proposed by the people; every city is divided into four districts and each district proposes one candidate. The mayor is elected for life. Every city (together with the country district) sends annually three representatives to a general assembly. Only the oldest, most experienced, and tried men are elected as representatives. The general assembly regulates production over the entire country, divides equally the supplies, equalizes the surplus and deficiencies between the several cities, without charge, and directs the surplus population of one city into another. The whole state is as one family.

Proposals in the city councils and in the general assembly are not discussed immediately, but at a later session, so that there may be no careless expression of the moment that is later adhered to from vanity or from being more concerned in maintaining an opinion, once expressed, than in the common good.

There are few laws in Utopia. Why should there be many—which the citizens do not know and cannot understand? There might as well be none. The Utopians need no legal attorneys. Everyone is versed in law; they form no treaties or alliances with other nations. They believe that there is a natural bond which binds men—a bond stronger than words, which, on account of their ambiguity,

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are deliberately chosen for the purpose of breaking an obligation, if it seems expedient. Craftiness, which in private life would be regarded as deceit, is, among ordinary states, extolled as a lofty art. The Utopians regard those people who do them no injustice as allies who are bound to them not through words, but through humanity. They gladly accommodate other nations by loaning to them, for a number of years, their officials. And indeed it would be to the advantage of every people to have officials from Utopia, for they are impartial and incorruptible.

The penalties for criminals are forced labor, chains, and marks of infamy. Butchering belongs to the forced-labor penalties, which, as an occupation concerned with killing and blood-letting, is regarded as unworthy of a free man. The chains and bells of the criminals in Utopia are wrought in gold and silver; the marks of infamy are gold and silver neckbands, headbands, and rings. In Utopia this is the use made of this metal which elsewhere men treasure more highly than their entrails, preferring to have these torn from them rather than be deprived of their gold! Little children are also decorated with this tinsel in Utopia, but as soon as they are grown up they put it aside as they lay aside their toys. Not tableware, but chamber vessels are made out of gold and silver, so there is only ignominy attached to these metals. They are not needed for domestic exchange, but they are used as a war treasure to buy mercenaries—or even the enemies themselves, whose leaders may be purchased to stir up sedition in the enemy country; or they may be used as a reward for the life of a war-baiter, so that by these methods this mass-murder, called war, may be prevented and the lives of their own

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citizens spared. It is also for this reason that the surplus products of the country, after a two years' supply has been secured, are exchanged, in part for wares and in part for gold and silver. But always one-seventh of the exports are transferred, free of charge, to the poor countries with whom the Utopians have commerce. And that the people may not become distrustful of the administrators of the gold and silver treasure, it is placed at the disposal of the public for objects which are little cared for, and are readily parted with, if it should become necessary to melt it again into bullion.

Improper sex relations among the unmarried are also among the acts that are made punishable; for if such acts were permitted, one would not readily take upon himself the burdens of marriage.

The clergymen are the teachers and protectors of the morals of the people. Their number is small; and in fact there are very few persons worthy of this office. The fundamental principles of their moral doctrine are: Happiness is the aim of life. Delight in the happiness of others is virtue. To love life, to fear not death. The purpose of law is to divide equally the substance of joy. Not sensuality, pomp, empty honors, or dice-playing give happiness, but a healthy body and the cultivation of the spirit. Beauty, strength, agility of body, keenness of mind, gentleness of soul—these are the aims of their education. They hold medical science, as the science of man, in highest esteem.

They endeavor to reduce the servitude of the body, labor, to the lowest practical terms. But, a reader may ask, are not six hours a day too short a period already? But one must consider that all women are co-workers;

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that in Utopia there are no rich, no nobles or religious idlers, nor their numerous, useless retinue of servants, nor lazy beggars who feign sickness; furthermore, that there are no senseless articles of luxury produced; thus a great deal of good can be accomplished in a short time. Even if one goes upon a journey, which the mayor has authorized by means of a passport, he continues to work at his calling and so becomes a welcome guest.

In other states there is much talk about the common good, but each actually thinks only of his own. Here, where there is nothing to own, each is honestly concerned with the thing that is common. Elsewhere each one knows that if he does not work for himself he will die of hunger, even if the condition of the commonwealth should be prosperous. Here, where everything belongs to all, he will not fear that he will ever suffer want; he lives in a happy mood; there is no worry about the support of the family or the future oppression of the children. Here everything is equally divided, not as in other states, where the most worthless and those whose activities serve only idle luxury have everything in abundance; where, on the other hand, the farmer, the miner and the rest, without whose labor the community could not live a day, have a more miserable lot than the draft-oxen; where the reward of their labor is not sufficient for the day; and where, after the strength of their youth is consumed, the state permits them to perish miserably. Not enough that every rich individual oppresses the poor to the extent of his power—it is even legally sanctioned and the outrage elevated into a right! Indeed, it is as if the states were nothing else than conspiracies of the rich to exploit the poor and to guard the spoils. If one were to investigate the stores of

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the rich after a famine, he would find supplies that would have been sufficient to have saved the lives of the majority of those who died of hunger. But these never-satisfied fellows, who divide among themselves what could have been sufficient for all, are, in spite of that, far removed from the peaceful happiness of the Utopian. Theft, deceit, robbery, murder, contention, unrest, mutiny, threaten them incessantly. Penalties against them help little. Will the rich never understand that to be free of all these evils and never be in want is better than their surplus? If man could only conquer the beast, the pride, that is in him! It finds its happiness far more in the sorrow of others than in its own welfare. Man would not care to be a god if he had no one to debase.



## CHAPTER VII

### HOBBS (1588-1679)

#### INTRODUCTION

*THOMAS HOBBS* was born of a very modest family. His father was an illiterate and choleric man who was forced to decamp from his native city in consequence of his irreconcilable temper. It is very probable that the unpleasant reminiscences of his early childhood had something to do with the "fear complex" of Hobbes which deeply influenced his whole life and philosophical activity. His timid and distrustful mental attitude was developed and strengthened by the whole atmosphere of his long and eventful life. He lived through one of the most stormy periods of English history, the wars of religion and the civil wars, fomented by the religious fanaticism of the period and by the unscrupulous tyranny of the Stuarts. He saw Charles I executed in Whitehall; he witnessed the sudden change of constitution under Cromwell, the Lord Protector; he saw the kingship reëstablished; he experienced the extreme insecurity of life and fortune amid the turbulent waves of revolution and counter-revolution.

All these experiences deeply impressed a man who by his temperament and natural inclination stood outside of the practical politics of his day. From his early youth he developed a remarkable faculty for all things of the spirit, especially for poetry, philosophy, and natural sciences. He



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*was still more confirmed in his secluded and aristocratic attitude by the patronage of the Cavendish family, a rich and influential house with some of whose members he later formed a sincere friendship. The upheavals of the revolution made him an exile. He was, as he candidly confessed, "the first who fled" and passed ten important years in Paris in the society of the Prince of Wales, later Charles II, whom he instructed in mathematics. In Paris he made the acquaintance of Descartes and Montaigne, as previously in England he had been in intimate intercourse with Ben Jonson and Bacon. Aside from the influence of these great men of his generation he studied very carefully the works of Galileo, Kepler, Copernicus, and Harvey. His exiled life, however, which was devoted to scientific work and intellectual intercourse, remained not long undisturbed, for his famous political writings De Cive and especially the Leviathan, in spite of their extreme absolutist tendencies, gave rise to a vehement opposition and hatred among the clerical circles of the royalist camp in consequence of his very critical attitude concerning the influence of the Roman Catholic Church and of his philosophic endeavors to make of the Anglican Church simply a department of the state. This inimical stand of the clergy toward him became so accentuated that he felt himself constrained to sever his allegiance with the exiled king and to return to London asking for the protection of the already consolidated government of Cromwell, which he obtained. In a not very dignified manner he tried to justify his acceptance of the revolutionary government. Since this episode his hatred against the clergy became still more pronounced and, as he himself said, he fled from the priests in England to France, and again from the priests in France to England.*

*In spite of his rupture with the royalists, after the restora-*

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*tion of Charles II in 1660, he still succeeded in obtaining the good will and the protection of his former pupil, the new king, and later he was very highly esteemed as the chief philosophic promoter of the absolutist doctrine and, in the possession of a royal pension, he was capable of continuing his scientific researches without any serious troubles. His mental freshness was so marvelous that in his eighty-eighth year he translated many parts of Homer in Iambic rhymes. In this later part of his life we witness a certain slavishness in his attitude toward the royal authority, which trait was entirely lacking in his earlier scientific demonstrations in favor of the royal absolutism. In spite of this complacency, his old age was not spared from certain political excitements. When he was nearly eighty he saw his Leviathan denounced by Parliament as atheistic and as attacking the moral order of society. In his shy timidity he burned all those papers which he thought could endanger his safety. But no serious difficulties arose and in his last years he could enjoy his great fame, which had spread throughout Europe; and he even found his influence strengthening in all the circles of counter-revolutionary thought. A new generation, however, especially under the sway of the great founders of the constitutional and liberal school, soon forgot his influence, which remained in abeyance until Bentham and the other philosophical radicals rediscovered his writings in which they found many elements in ethics and psychology which could have been utilized for the claims of the radical school, particularly the associationist school of psychology, for they regarded the formulas of Hobbes as more clear and penetrating than those of Locke, who seems not to have been very much influenced by his great predecessor.*

*Under the sway of these natural dispositions and historical experiences, Thomas Hobbes became the chief political ex-*

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*ponent of the absolutistic doctrine. He was called a radical royalist, but he should rather be named a radical absolutist because the essence of his teaching is not so much the justification of kingship as that of the absolute and unlimited character of the supreme power, which must be, by its very essence and nature, totally omnipotent and uncontrolled. His state was evidently intended as a real fantastic monster, for on the frontispiece of the first edition of the Leviathan he had put a curious picture in which from behind hills overlooking a fair landscape there towered the body of a crowned giant, made up of tiny figures of human beings, bearing the sword and crosier in its hands. This picture is really symbolical of the whole state conception of Hobbes, because it signifies three things: first, the organic character of the state as a kind of a real material body constituted of the individual lives of the multitude; second, the irresistible power of the state; third, a power to which all other powers, even the spiritual, are entirely subordinated.*

*Hobbes has often been portrayed as the man who introduced natural science into political and social discussion, but this claim is based rather on his total attitude toward the world, on his general Weltanschauung, than on his real contributions in this direction. Hobbes was certainly very much influenced by the great physical and biological discoveries of his glorious scientific century, and he clearly felt the immense difference between the new science and the Aristotelian and mediæval. But his attitude was rather a sentimental one, for he never succeeded in making any contribution to natural science or mathematics, though he thought that he was successful in "squaring the circle." Thus he became the prototype of those numerous modern thinkers who in a rather naïve way adore the almightiness of natural science and the unique legitimacy*

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*Not only later political thinking, but also economic, was deeply influenced by the Hobbesian view of human nature; and Windelband is right in emphasizing that the homo economicus conception of the English economy is an outcome of the Hobbesian portrait of human tendencies.*

*But in spite of the one-sidedness and exaggerations of his thinking, Hobbes is really a very deep and original thinker, who, even in his faults, is more instructive and suggestive than common-sense mediocrity. He himself proudly said that he did not read much and, had he done so, he would have become as barren and uninteresting as most of his contemporaries. As a matter of fact, every problem which this misanthrope took in his hands gained a fresh aspect of a keen personal embrace of reality. For example, when he attacks the sins of democracy we hear all the anticipated arguments of present-day Fascists and Bolsheviks. At the same time his admiration of absolutism does not mean that he was a blind worshiper of all conservative or reactionary forces. On the contrary, he sometimes attacks vehemently the big moneyed interests of his country and he regards the influence of the merchants as one of the chief corruptive causes of the commonwealth. Sometimes he even assumes a socialistic tone. He says, for example, that if the axiom that the three angles of a triangle constitute two right angles would have been unfavorable to the interests of the rich, all the books on geometry would have been burned. Similarly, he has excellent suggestions concerning the problem of peace and war. For example, his axiom that the chief cause of conflict is that many wish the same thing, but neither can they divide it nor are they inclined to enjoy it in common, and his assertion that peace means a society between equals, is surely a deeper foundation of the peace problem than many of our modern fashionable doctrines.*

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*This general characteristic of his writings made the philosophy of Hobbes in its final result a means rather of liberation than of social oppression. For the very dialectics of his system became, in the hands of a Milton, a Spinoza, a Rousseau, a powerful instrument in overthrowing absolutism. Hobbes was finally beaten by his own arms.*



## DE CIVE

**WE** HEAR of an inborn fitness of man for society. Theories of state are built upon the principle that man is a political animal. Yet it is not true. A child, it is true, needs the help of others to live; a grown person, to live well—we long to have people about us. But necessity and desire are not sufficient to constitute a society.

A civil society is not a mere living together. It is a union of compacts which requires faith of which a child knows nothing and of the utility of which many—the majority—gain no knowledge during a lifetime. How, then, could they have the capacity to form a civil society!

Man first became fitted for society through discipline. It is obvious that society is not held together by the love of mankind, which would be equal love for all men. Let one but observe what men do when they are with one another, and he may learn what causes them to unite with one another. They seek their advantage, or else the gratification of their vanity. In a social circle, vanity is the source of joy; one makes himself agreeable on account of others; but the great and permanent social forms originate from men's fear of one another.

Men's fear of one another arises from the fact that they are equal and seek to injure one another. They are alike in this, that the structure of our body is so fragile that the weakest can kill the strongest—that is, can commit the greatest evil.

Malignancy, the will to do one another injury, is, under

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natural conditions, common. One man is by nature powerful; the other must guard himself against him. Out of the difference, in the rivalry of mental faculties, springs hatred. To be of a different opinion in many things is generally to be regarded as a blockhead; for this reason religious sects and political parties carry on the most bitter warfare, for nothing is so offensive as treating one with scorn or contempt. The chief cause of warfare is that many desire the same thing and neither can nor wish to divide it or enjoy it in common.

Hence it follows that the natural state of mankind, before states were established, was a war of all against all, relentless war to which no victory put an end.

This eternal condition of war was bad for all, and men had to admit that in order to maintain themselves, peace must be brought about, and if peace with all were not possible, confederates must be found in order not to be compelled to carry on war alone and against all. Mutual fear constrained them; reason commanded them.

What reason commands is a law of nature. The first, the fundamental law of nature reads thus: Create peace whenever possible; if that is not possible, create allies, helpers in war.

Out of this, as a means to peace and protection, come natural laws. They are as follows:

Keep a contract agreed upon; guard the trust, else peace cannot be maintained.

Have personal regard for others. He who takes the necessities from others in order to create a surplus for himself, conjures up war.

Be not ungrateful, lest good will, confidence, and mutual helpfulness cease and war remain.

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Forgive the faults of the penitent who offers security for the future. Not to forgive is to not want peace.

In punishing, the future welfare, not the past wrong, is to be kept in view. Punishment should only be administered to improve the wrong-doer and to warn others. Revenge which looks to the past is vanity which has no aim, for aim implies the future. Vain triumph to injure another is contrary to reason, is cruel, and leads to war.

Under no consideration should one cause others to feel despised. It invariably enkindles war. The greatest joy of the human soul is to have a high opinion of oneself, for one would risk not only peace, but his life, rather than endure disdain. How often magistrates commit the crime of insulting! How often judges abuse the guilty, though abuse belongs neither to guilt nor to the office of judge!

Men are by nature equal. Differences in rank are created by civil law. Aristotle is of a different opinion. Men, he says, are by nature so created that some are called to rule and others to serve; the differences in endowment make masters and slaves. This is contrary to reason and experience. No man is so stupid that he would not prefer to be his own master. Yet how often do the well-informed depend upon brute force!

However that may be, for the maintenance of peace it is necessary that one man should regard another as his equal. Natural law forbids pride.

The command of natural law is: claim only for yourself that which you would also grant to others.

Even with the best intent to observe these natural laws, disputes will arise as to whether an act is in accord with the law. That the dispute may not lead to war, it is nec-

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essary that a third party, who regards both parties to the dispute as equal, judge the case. Natural law commands justice. No one should judge his own cause, for naturally each will seek first what is good and useful for himself, and justice for the sake of peace, only secondarily, from force of necessity.

These and other commands follow from that principle of nature which offers peace in order to maintain life. Natural laws are the same as those called moral; they command virtue as a means to peace. One might reply that the derivation of this law is too difficult to expect it to be generally known, and it is certainly true that if our soul is wrought up with hope, fear, anger, ambition, avarice, vanity, and other passions, we are not in a position to understand the commands of nature. But in a calm spirit there is nothing easier; one need only follow the simple rule, do not do to others what you do not wish for yourself.

Men well know the law of nature, but the majority are inclined to deal contrary to these laws when it appears for the moment to be more advantageous to them or as the lesser evil. If some wish to do justice where others do not, society will soon come to grief, for that would be neither according to reason nor according to nature. So long as there is no security against the crimes of others, one cannot obey the laws of nature. Security can be created in no other way than by having the greatest possible number combine for mutual help and common protection, but they must be united in ways and means of common protection, else they will not help but hinder one another; and individuals must be prevented from withdrawing from obligations agreed upon if their self-interest

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is at variance with the general welfare. Fear must keep them in check.

With men it is not, as with bees and ants, that an instinct directs the actions of the individuals to a common aim. Instead of thinking of the common good, each usually regards only that as good which gives him an advantage over others. Enviously and hatefully they compete for rank and honor. One man considers himself wiser than another. Each would introduce innovations according to his own idea. Those who are most successful are the most dangerous in their ambition. All this leads to strife and war. 'Speech serves as a war trumpet.

In order to establish security and peace, a common power must be formed which curbs the individual by means of fear of punishment. This can be done only if all subject themselves to one person or to a council whose will shall determine what is necessary for peace and common protection. Each must pledge himself to all, that he will not oppose that person or council, and he must support him with all powers at his disposal against those who oppose him. Thus the person or council will have sufficient power to force the individuals into agreement.

Such a union is a civil society, a state. The person or council to whom all are subjected is the holder of the highest power, of sovereignty; the others are his subjects.

The origin of the state is fear. Men subject themselves to the very one whom they fear, the conquered to the conqueror, in order to save their lives; or they subject themselves to someone from whom they expect protection against those whom they fear. In the first case the ruler—one who naturally possesses super-power—creates subjects; in the second, the citizens, upon deliberation and

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agreement, choose their own government, either an individual or a council.

It is not sufficient for those who unite themselves to form a state to mutually pledge themselves not to murder and steal. Promises give no security; it requires penalties through which it will become obvious that to commit an act will result in a greater misfortune than to refrain from it. (Naturally, each will choose that which seems best for him.) Security and peace also require that some person, or a council, be given the right to judge and to punish. That is to say, all must pledge themselves to give no support to those who are punished—a pledge which people generally observe if neither they nor their nearest relatives are to be punished.

He who has the right to punish according to his own discretion has, so far as right is concerned, the highest power in the state; he can compel all things.

It is useless for citizens to maintain peace among themselves if they cannot defend themselves against foreign enemies. And that can only be done by united strength, so ordered as to intrust to one person or a council the right, in case of danger, to summon, arm, and command as many citizens as the protection of the entire community requires, and also the right to conclude peace with the enemy.

This right—to conduct war and conclude peace—should belong to the same person or council that has the right to punish, for only the sovereign may force citizens to bear the flag and the burdens of war.

The swords of justice and of war should be in the same hands—the hands of the highest authority.

To prevent a conflict is more essential to the achievement of peace than to hasten it. A conflict originates

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because men are of different opinions concerning what is mine and thine, just and unjust, useful and injurious, good and bad. It is for the sovereign authority to establish and proclaim rules so that everyone may know what to do and what not to do. This is called legislation.

Civil or political laws are commands of the sovereign prescribing the relations that citizens should maintain.

The affairs of the state in war and peace cannot be managed by a single person or a single council without other officials or authorities. To select and instruct them is, in all reason, the duty of the sovereign.

There is in every state a person or an assembly that has the supreme power, that has the power to make laws, to determine upon war and peace, to judge—either directly or through a magistrate appointed by the sovereign—and to appoint officials.

The state in which one person has this supreme power is called a monarchy. If the supreme power is vested in an assembly in which every citizen has the right to vote, then the state is a democracy. But if an assembly rules in which only a part of the citizens have the right to vote, the state is an aristocracy.

These three kinds of constitutions may be contrasted with three others: anarchy with democracy, oligarchy with aristocracy, tyranny with monarchy. But they are not really different kinds, but rather different terms which express emotions and estimates of values. What one calls a democracy, another reviles as anarchy. If a king does not govern well he is stigmatized as a tyrant. Government by a part of the people is sometimes called aristocratic (the rule of the best) and sometimes oligarchic, according to whether it pleases or displeases.

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The power of the ruler or of the governing assembly is everywhere absolute, unlimited; that is, there is no other, higher power in the state that may place limitations upon it. If there is, then it becomes sovereign. One hates to admit that a ruler has absolute power, out of fear that he might abuse it; but this danger also exists if he is not granted absolute power. A ruler who has enough power to protect all—a requisite that must be conceded—also has sufficient power to oppress all.

The root of the evil lies in the citizens; if men could govern themselves and live according to the laws of nature, they would need no state and no government.

Many think that to secure liberty a mixed constitution is necessary in which the supreme power is divided between the king, the nobles, and the people; the king, let us say, is to decide concerning war and peace and to appoint magistrates; the nobles are to exercise the judicial power; the people are to vote taxes and pass uniform laws. But such a distribution is not possible. As we have shown, the supreme power over justice, war, law and administration should be in the hands of one person. The king determines upon war and peace, but the people vote taxes! Is it possible without money either to conduct war or to maintain peace? He who controls the purse has the power; the other has only the name.

Even if such a mixed constitution were possible, it would be nothing less than dangerous. If the three different powers are united, there arises the most powerful rule; if in discord, civil war.

It has been said that only the people may tax themselves, for "the owner is the unlimited master of his own property, even against the state." This statement is ob-



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vously false. There was no property right before the state was established. Ownership always was and will be decided by the state.

It is urged against monarchy, that it is unjust to grant to one person so great a power over many. This reproach is born of envy: one has what all would like to have. The same critics would also regard the rule of many unjust if they had no hope of ever belonging to the ruling class themselves. The condition of equality is a condition of war. If inequality is introduced through the concurrence of all, it is not unjust.

The monarch, it is said, helps himself from the public treasury to the income of the state, to enrich his family, friends, and courtiers. But this evil occurs in all states. It is more tolerable in a monarchy than in a democracy. The monarch is but one person; those whom he would enrich are few; but the demagogues, the talkers, who keep the people in leading-strings, are ever on the increase, and daily new ones arise; and all would like to help their relatives, friends, and flatterers to well-being and obligate as many as possible to themselves.

It is a great misfortune to have the citizens in continual fear that the sovereign might abuse his power and ruin the innocent. But Nero's misdeeds should not be ascribed to monarchy. In a democracy there may be as many Neros as there are demagogues; each demagogue is as powerful as are the people themselves, and the one will close his eyes to the misdeeds of the other.

If the monarch frees himself of powerful personages, it is called envy; if the people do the same thing, it is called politics.

That monarchy is in worse repute than is democracy is

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due to the fact that the people determine its reputation. What many do will be praised by many.

It is said that there is less liberty in a monarchy than in a democracy. Are there less laws and prohibitions in a democracy? Is one less subject to them? No. One speaks of freedom when he means dominion, participation in government. Those who in a monarchy complain about lost liberty are troubled only because they themselves do not occupy government offices.

Democracy is praised; public affairs are considered by all, each has an opportunity to present his wisdom, knowledge, and eloquence in the most important affairs. Is there anything more beautiful for the human soul thirsting for praise and approval?

To see how our wisdom is disregarded, how the opinion of those whom we disregard is preferred to ours, how we incur lasting enmities in the dubious conflict for vainglory (for that is unavoidable whether one conquers or is conquered), to hate and be hated, as a consequence of different opinions, is that also beautiful?

To be able to form a conclusion in political affairs that will redound to the welfare of the state requires knowledge of which the majority of those who participate in large assemblies are ignorant, not to say incapable. What can the great majority, with their useless opinions, contribute to the formation of a good decision? They only hinder.

Long and lofty speeches are made in large assemblies. The art of speech consists in magnifying or minimizing the good as well as the bad, in representing the just as the unjust, or the reverse; true principles are not built upon, but diffused opinions, which are mostly wrong; speeches are not based upon the true state of affairs, but upon the sen-

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timent of the auditors. That is in the very nature of the art of speech; its aim is not truth, but victory; it does not seek to inform, but to persuade. The conclusions, therefore, are not drawn from reason, but from agitated emotion.

Factions are evils of large assemblies, which ultimately lead to civil war. The consequence of debate is that the vanquished hates the victor and all his followers, and does all he can to defeat his opponent and bring himself again to honor. All kinds of tricks and intrigues are employed in order to gain a majority and the upper hand in the subsequent assembly. And if speeches and votes fail, they resort to arms.

If the legislative power is vested in popular assemblies, the laws are inconstant. They will be changed not because conditions have changed, or because of better information, but because of a change in the majority of successive assemblies.

The deliberations about affairs of state in large assemblies are a serious drawback in a democracy as compared with a monarchy. The people should be satisfied with electing magistrates, and leave legislation and questions of war and peace to a single person or to a few; but in a democracy that is scarcely possible. One neglects his own affairs for the public only to display his ability and later boast about it among women, relatives, and acquaintances.

While in an aristocracy and democracy an assembly must first be called, before action is taken, a monarchy is always prepared to exercise the powers of government. That monarchy is the best form of government is also evident from the fact that in war all states transmit the su-

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preme power to a single person. But the relation of states to one another is naturally a condition of continuous war.

The supreme power is the same in all states. Welfare and misfortune both depend upon administration. Power is possibility; administration is action. Whoever may be ruler—woman or child—if the men who are at the head of the administration are qualified for their task, the state will be well governed. There is a saying: Woe unto the land whose ruler is a youth. But that merely signifies the danger that in such a case the state will be governed democratically; ambitious and powerful men press forward to seize the rudder of the state, and the evil which characterizes a democracy sets in.

The duties of a ruler may be summed up in a single sentence, The welfare of the people is the supreme law, but the welfare of the people is the welfare of the majority, and that sometimes makes it necessary for the bad to suffer.

Welfare does not mean mere existence, but also a beautiful life. Protection against enemies, domestic tranquillity, well-being, liberty—these are the benefits which a ruler may confer upon citizens for their happiness.

To guard domestic tranquillity the ruler must take care that no sentiments or emotions are aroused that would tend to cause an uprising. The will of men is governed by their opinions; they act in accordance with what they regard as good or bad. Doctrines which lead citizens to believe that they do right when they disobey laws or when they oppose a ruler, shatter domestic tranquillity and disturb the state. The ruler should suppress such doctrines and provide for the propagation of sound theories. One cannot command opinions, but only teach them. Not through terror and punishment, but on the basis of

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reason can they be established. To combat false doctrines, laws should be directed, not against the erring, but against errors. False doctrines usually begin in the higher schools, are proclaimed from the tribunes, and through hearsay are spread among the uneducated. For that reason care should be taken that a true theory of the state should be taught in the schools. Doctrines which are obviously false, and so unintelligent that it would seem that they had been formed from words blindly drawn from an urn and placed in a row, are today, through the habit of hearsay, generally accepted. How much rather would men accept a true and intelligent theory!

There are also emotions which dispose to rebellion, as for example, exasperating poverty. Men are not given to ascribe their poverty to their indolence or their extravagance, but to the government, excessive taxes, etc. Those who under existing conditions fare ill are ready for innovations; those who feel themselves oppressed by the state are willing to revolt. Their complaint may have its reason in the unequal distribution of the burdens of the state. Inequality weighs more heavily than the burden itself. Public burdens should be distributed equally—not equality in the amount of money, but equality in the burdens imposed, should be the aim of the state.

Unsatisfied ambition is also one of the dangerous disaffections of a state. All seek after honor and fame, but especially those who have no other cares and much idle time. In their leisure they talk over public affairs; they read the works of historians, orators, politicians, and therefore they consider themselves called upon to guide the destiny of the state; but as everyone is not what he thinks he is, and as all cannot be appointed to office, many con-

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sider themselves put in the background. Out of envy toward those who are preferred, and in the hope of rising to notice, they ardently hope that the state may fare ill. Their capacities, which they cannot display in the service of the state, are used to its injury. It would be a vain effort for a ruler to fight against ambition. But through a proper application of reward and punishment he may bring men to understand that he who inveighs against government and who flatters the crowd and kindles conspiracies, will not attain to honor, but to punishment and disgrace, and that men who are true to government will come to honor. Thus men will incline toward obedience rather than toward resistance. However, it sometimes happens that one must flatter an uncompromising citizen on account of his power, as he would an unruly horse. In that case neither ruler nor rider is firmly in the saddle.

Even if the citizens are infected with opinions hostile to the constitution, and are oppressed and injured, they will not revolt if they have no prospect of success. Hardships are borne out of fear of greater hardships. In order to raise the hope of victory in the disaffected, their number must be large, they must prepare the necessary measures, have confidence in one another, and esteem someone as a leader whom they voluntarily obey. If these conditions are at hand there is nothing lacking for a revolt except someone to arouse the masses. Sallust said of Catilina: His eloquence was great, his wisdom small. That is the character of the agitator. If he were wise he would love peace. It is oratory that may cause a revolt. Not, however, that eloquence which wisdom lends—the ability to represent thoughts clearly and agreeably, so that the nature of the thing is perceived and the thought of the

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words comprehended; but that other kind of eloquence which stirs up the passions, represents the thing not as it is, but as one sees it in emotion; that raises hope, underestimates danger, talks the auditors into the belief that their condition is much worse than they know—that out of fools makes madmen.

Liberty in the state consists in this, that the laws command and forbid no more than is necessary for the general welfare; that the citizens have no other penalty to fear than that threatened in the law; and that the law and legal penalties will be executed.

The liberty of the individual should not be restricted where it does no injury to the state. The many laws which cannot be observed, and which forbid what reason does not forbid, are a snare and a delusion. What we should do or not do is judged much less from a knowledge of the law than from sound common sense. The penalty in the law should be the determining factor in the minds of the citizens, so that, weighing the advantages and disadvantages of an action, they will refrain from committing an evil act. If the lawgiver has fixed too light a penalty, so that desire outweighs fear, he is himself to blame if crimes are committed, and if he later permits a heavier penalty to be inflicted, he punishes his own fault in another.

It is not sufficient that laws prescribe rights, duties, and penalties; they must also be executed. Not the fixing of penalties but their execution prevents wrong-doing. One reasons about the future from the past, and what has seldom occurred is seldom expected. Where the judges are corruptible, there evil-doers hope to escape without penalties; there the criminals, but not the good citizens, enjoy liberty.

## CHAPTER VIII

### SPINOZA (1632-1677)

#### INTRODUCTION

*EUGENE DÜHRING* made the interesting remark that the year 1632 was a decisive date in the history of the human spirit because it gave birth to two men whose philosophical genius showed new ways for European thought in very opposite directions. In this remark he made allusion to John Locke and Baruch Spinoza. The former became the founder of the modern criticism which regards the critical examination of our mental faculties, of the claims of the human mind as the preliminary requisite of all philosophical examination. The latter is the first exponent of a modern metaphysical system which with a daring temerity endeavors to reduce the whole universe, both animate and inanimate, to a unique principle. After Locke and Spinoza, many other independent philosophical schemes arose, but all of them fall either under the category of criticism or that of metaphysics. In spite of the heterogeneous character of both types of thinking we shall see that the political systems of both great men are very much alike.

Spinoza was born in Amsterdam of a family of poor Portuguese Jews. He represents a type of political thinker which is very rare and which we have not yet encountered in the pages of this political survey. All the exponents of political



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*theories with whom we have dealt so far were men passionately interested in the political struggles of their days and the private destinies of whom were closely related with the ascendancy of a group whose political interests they intended to promote. On the contrary, Spinoza was always outside of the political struggles of his day, and, though a friend of Jean de Witt, the distinguished Dutch statesman, and of his aristocratic republic, he safeguarded perfectly his moral and economic independence. And when Carl Gebhardt, a recent editor of Spinoza's political writings, says that the Political Treatise was nothing else than a Dutch state memorandum in the defense of the republican politics of Jean de Witt, and the Theological Political Treatise a defense of the church policy of the same statesman, we have the right to assert that this coincidence was not at all a conscious effort on the part of Spinoza to secure for himself the favor of the leading statesman or of political advantages. For Spinoza led a life of an absolute philosophical simplicity, disregarding all the joys of the average human life. His precarious state of health and his natural shyness became even more accentuated by an unhappy love affair and by an attempt against his life, committed by a fanatical Talmudist student who tried to kill the man whom he regarded as a dangerous heretic. His independent free kind of thinking attracted to himself the burning hatred of the Jewish community from which he was expelled, a further cause of his secluded and isolated life. He lived mostly in the society of two distinguished physicians and of some Protestant dissidents, but after having been cast out of his denomination he never became a member of any new creed. In this manner he became the first man without denomination in Europe.*

*According to these circumstances both his hereditary nature and his social surroundings corroborated him in the exclusive*



BARUCH SPINOZA



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*search for philosophic and scientific truth. Instead of the society of his contemporary city, he was in daily intercourse with the great spirits of his epoch with some of whom he was also accustomed to correspond extensively. Among his immediate philosophical predecessors especially, the influence of Hobbes and Descartes is very decided in its effect upon his entire system. At the same time he was very much under the sway of the experimentalist attitude of the natural sciences. It is reported that he procured starved spiders to observe their mode of fighting.*

*Grinding optic glasses in order to get his livelihood, he showed a remarkable unselfishness toward all with whom he came in relation. He accepted only a part of a pension given him by his friend Simon De Vries, and when the Great Elector of the Palatinate invited him to a professorship at the famous University of Heidelberg, he refused the offer because he did not see his scientific independence sufficiently assured. In spite of this absolute worldly disinterestedness and his remoteness from all political and social interests, the intrigues of the Jewish gang constrained him to abandon Amsterdam and he died at The Hague in the midst of his scientific activity as a result of consumption.*

*Among the works of Spinoza, his Ethics is the most general and important because it contains a complete system of both a moral and a natural philosophy. Spinoza is often portrayed as a modern monist and determinist, but we can accept this definition only if we interpret his attitude not in the crude mechanical and materialistic way of our day, but in a spiritualistic and dynamic sense. The famous Pantheism of Spinoza is a kind of a cosmic religion in which God and Nature become the same ultimate, infinite Substance of which all other beings are forms and modifications. On the other hand,*

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*Spinoza anticipated some crude features of modern materialistic monism by identifying might with right. In his system there is no real place for liberty and moral responsibility, for he regards right as simply the organization of power and he interprets virtue and crime as a pure function of state institutions.*

*He is no less an absolute egoist than Hobbes, and he accepts the whole arbitrary conception of the English philosopher concerning the state of nature; nay, he even corroborates it by his naturalistic monism as an outcome of natural laws. In spite of this analogy the two important political treatises of Spinoza arrive at just the opposite conclusions. The absolutistic state of Hobbes can have no legitimacy in the mind of Spinoza, who regards liberty as the supreme end of the state. This liberty which means a life ruled by reason rather than by the passions is somewhat vague, but on one point the great philosopher is quite explicit: he would maintain the liberty of thought in every field. An aristocratic constitutional republic based on religious tolerance, reasonable liberty, and the maintenance of a peaceful order seems to be, in the system of Spinoza, the best state. I say advisedly it seems to be, because, unfortunately, he could not finish the last chapter of his Political Treatise dealing with democracy.*

*What is certain is that he disliked all forms of arbitrary government and he pitied the English because after the downfall of Charles I they fell under the tyranny of Cromwell and later, in 1660, the old royal government. He disliked the absolutism of Louis XIV. At the same time he emphasizes that all uncontrolled power and secret government must be detrimental to the wellbeing of the community. As a matter of fact, there are many thoughts and suggestions in the political system of Spinoza which are very advanced for his period. He is one*

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*of the first to advocate the idea of general compulsory military service and of a radical land reform which seems to foreshadow the single-tax reform of Henry George. He is also very clearly of the opinion that the present political incapacity of the masses is not an inherent quality of the people, but that they are kept intentionally in ignorance by those who retain the power. Without such a situation the people would rather deserve to govern than to be governed. Though Spinoza cannot be regarded as a thoroughly original and systematic thinker in the political field, yet the extreme clearness, the suggestive power, and the serene calmness of his definitions exerted great power not only on his contemporaries, but even on our modern thought. He very often succeeds in expressing an already known thought in the most simple and suggestive way.*

*The writings of Spinoza excited the hatred and animosity of all bigoted clerical circles which identified his pantheistic attitude with atheism. He was called the crudest materialist and the most irreligious author. Even the relatively free political atmosphere of the Netherlands was so insecure in his time that the Theological Political Treatise was published anonymously and under a masked place of publication; and the government of William III of Orange forbade his writings, which were characterized by the state authority as "abounding with all blasphemies against God, against His qualities, and His Trinity worthy of worship." Even after his death he remained under the anathema of the clergy, a moral outcast; and up to a comparatively recent date Spinozism was regarded as something so pernicious that Lessing and others kept their veneration toward Spinoza almost secret. Only later was he admired by many illustrious representatives of modern thought as their master in understanding the depths of the human soul. Especially his analysis of human passions is still a*

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*remarkable and fertile contribution to our modern psychology. In political thought all those who cannot discriminate right from power, especially those who do not see in the state a higher element than the ever-changing struggle of various antagonistic interests, may regard Spinoza as the chief metaphysician of their half-true doctrines.*

## TRACTATUS POLITICUS

**POLITICS** must be pursued as calmly and dispassionately as mathematics. Concerning the deeds and passions of man, one should neither laugh nor weep nor look upon them with sanctimonious scorn, but try rather to understand them. Hate, envy, revenge, vanity, are not to be condemned as faults; they are part of the nature of our soul, as love and mercy. Also it is part of man's nature to wish that others would live according to his own idea, and to have others regard that as beautiful which pleases him; and for that reason men continually wrangle, try to conquer one another, and rejoice much more in the injury of others than in their own advantage. We must take people as they are, not as we would like to have them. To what purpose devise a state constitution for a type of person that does not exist; and if there were any such, would need no constitution? The foundations of the state are not derived from reason, but from human nature in general. Reason may indeed far surpass passion, but the way of reason is too steep. He who hopes to be able to convince the masses, or even the statesmen, that they should act according to reason, is a dreamer. A government built upon the faith of the subject or upon the integrity of an administrator has no stability. Everything should be so ordered that these cannot act unfaithfully; then only will government be secure. And security is the virtue of government, as courage and strength are the virtue of the individual.



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It is not probable that in the political world anything could be discovered that could be carried out in practice that had never been thought of or tried before. Experience has already shown every means by which man can be held in check; all kinds of state constitutions under which men could live together. Clear-sighted, intelligent men, devoted to the general welfare, considerate of their own security, have devised, fashioned, and refashioned political organizations; there is scarcely anything imaginable upon which, through necessity or accident, they have not already been advised.

Every being has by nature the right to all that he can accomplish. The natural right of man extends as far as his power. A divine power influences all his actions. Whether he obeys reason or blind desire, he acts according to his nature, according to natural law. To whatever deed a blind instinct may drive him, whether actuated by hate or malice, he commits no crime against the law of nature. Natural law knows no crime; it forbids no act of which anyone is capable; it knows no duty other than that which to one's self seems best. Natural law forbids only that which no one desires and which no one can do.

Man, it is said, should have a free, independent will to determine his own course and to use his reason. Unfortunately, experience more than disproves this assumption. If it were within our power always to obey reason, who would permit himself to give way to passion! It is no more within our power to have a sound mind than to have a sound body. Or shall we call that the liberty of the individual which also permits him to lay aside reason? That would be crazy. Liberty signifies power, the power to maintain one's self and to develop toward that to

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which the inborn need of every being aspires. To be able to select the bad and injurious is not liberty.

The contradictions of human life are explained in the recognition that man is but a tiny part of the whole. What appears to us contradictory and bad only seems so because we cannot see it in its relation to the whole. Nature determines not merely those laws of human reason which aim at man's welfare, but also countless others.

He who has another in his power is, upon the strength of nature's law, his master, whether he has physically overpowered, disarmed, and bound him, or has spiritually overcome him, imbued him with fear, deceived him through hope, outwitted him, or put him under obligations, so that he is willing to obey him instead of living according to his own mind.

According to the law of nature a free man, fully emancipated, is his own master only if he has the power to ward off external force and can, on his own initiative, acting as his own judge, obtain satisfaction for an injustice which he has suffered and, in general, live according to his own way. Since the power of man depends more upon spiritual power than upon physical strength, that one is usually the free and mature man who is guided by strong reason, intelligence, power of judgment, and a firm will.

Since passions set men against one another, they have to fear each other. They are enemies by nature. The more one has to fear, the less is his power—that is to say, his natural right. Since the individual alone is almost helpless against all others, his natural right, which springs out of his own strength, vanishes into thin air. If two unite, they have more power and also more right. If many unite for the common protection of themselves, for

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the country which they inhabit and cultivate, and for the purpose of leading a peaceful life according to a common will, then only will human rights become real. There will be a common opinion as to what is good and evil, what the individual should do and not do; and he must conduct himself accordingly, for the community has the superior power; their will is the compelling right which concedes to the individual his rights. Such a union is a state. What belongs to one and what to another is decided in common; and justice means to grant to each his own. In the state of nature everything that one could take possession of belonged to him; it could not then properly be said that any particular thing belonged to this one or to that one. Only in the state can one properly speak of what is just and unjust.

In the political state, as in the state of nature, might is right; the individual yields to the power of the community when he obeys the laws. He may do it from reason or from fear. The advantages of the political state outweigh the evils that arise from it, and of two evils it is reasonable to choose the lesser. Only in the state, by obeying the laws, is that peace to be obtained which dispels the misery of mutual fear. Peace is the purpose of the state association. Even in the state of nature the reasonable man exerts and constrains himself for the sake of peace, but he who fears nothing and hopes for nothing, and wishes to be his own master, is an enemy of the state and must be coerced. It is preposterous to conceive of a state which permits each to live according to his own discretion, to be his own judge. To grant a right is to grant power, else the grant is an empty form. If one is permitted to live a capricious life, the state has relin-

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quished some of its power; if many are permitted to do so, the government is divided; if all, the state is thereby dissolved.

Power, the right of the state, is the harmoniously directed power of its totality. The dispensing of this power to determine and execute laws, to provide protection, to decide concerning war and peace—that is to say, the right to govern—may be vested in an assembly of the whole people or in a number elected for that purpose, or in one; a democratic, aristocratic or monarchic government.

That man is powerful and really emancipated who permits himself to be led by reason. The same is true of a state whose constitution and government is according to reason. The unity of the state can only be obtained if the state steers toward that which reason, the sound common sense of all, determines as useful.

Power, the right of the state, has natural limitations. It is not within the power of the state to move men except through fear or reward. Belief does not permit itself to be commanded. That one love the one he hates, hate the one he loves, that he fear no death—and similar unnatural things, are not subject to command.

Neither should a state do that which injures many citizens, for it is natural that, united by common fear and revenge, they will rise in revolt. Thus the state will forfeit some of its power which should remain as the power of all. Also the state has something to fear, and the more it has to fear, the weaker, the more immature, and the less free does it become.

Neither can a state rest entirely upon the fear of the subjects; it needs their esteem. Ridiculous and outrageous actions disrobe it of majesty.

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The relation of several states to one another is like the relation of men in a state of nature—one of enmity. Those who are not united in a state are natural enemies. Peace, treaties, and alliances of states endure only as long as the reasons for them endure—as long as fear of injury, or hope of advantage, permits them to endure. Every state regards its own well-being, the well-being of those who belong to it, as the highest law. In every treaty between states there is an implied condition that the obligation ceases the moment fear ceases. A state should never complain about the breach of faith of another state—it may bewail its own folly.

What has been said—and the rest that we still have to say—follows necessarily from man's nature, from an inborn instinct of self-preservation.

Peace and the security of life are the ultimate purposes of the state, and when we say life we mean human life, not merely animal existence. A good state is one in which men live in harmony and respect the laws. Insurrection, war and crimes, are not to be ascribed to the baseness of citizens, but to the baseness of the constitution. Human nature, with all its passions, is everywhere alike. Man is not born as a citizen. If in one state there are more crimes committed than in another, the fault is in the constitution; the laws and the government have not done what is necessary for harmony among the citizens; but a state in which there is continual fear of war, insurrection, and crime is scarcely distinguishable from a state of nature where everyone lives in constant danger. On the other hand, the state deserves, on the part of all citizens, virtue, justice, and conformity to law; upon them depends the excellence of its government.

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There is no peace where terror keeps the citizens in check. Mere absence of war is not peace. Peace is healthfulness of soul; out of it springs unity. Obedience does not imply animal servility on the part of the subjects, but their constant willingness to conduct themselves according to law. We are here speaking of a state determined by a free people, not of the rule of a conqueror.

What unites the masses is not so much reason as common fear, hope, and revenge. But especially fear, the fear of being alone. Man alone can neither protect himself nor acquire the necessities of life. There is, therefore, in man a natural instinct for political union, and it is impossible ever to completely dissolve the state. There is merely a change in the constitution.

A state should be so ordered that the rulers as well as the ruled, whether they wish it or not, must do that which the common welfare, that is, reason, demands. That is to say, not the least of that which concerns the general welfare should be wholly intrusted to the honesty of any man. No one is so strong that he does not sometimes waver. It is foolish to expect of others what one himself cannot do—care more for others than for himself, not be selfish, ambitious, or envious; this is especially true of one who in consequence of his position is most exposed to the temptation of passions.

According to experience it would seem that those constitutions were best suited to maintain peace within the state in which all power is vested in a single person; that, accordingly, an absolute monarchy would have the most enduring constitution; a democracy, on the contrary, the most insecure, the most exposed to revolutions. If peace is understood to mean slavery, there is nothing more

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deplorable than peace. Peace is the harmony of strong souls, not the ineffective weakness of slaves.

In general it is a mistake to suppose that one person could control the collective right—*i.e.*, all the power—of a state. This burden is beyond the power of any one man. The king has his officers, councilors, favorites. And very often a government which passes for monarchical is, in fact, an aristocracy in disguise, and consequently the worst kind of an aristocracy.

Since a king has more to fear from his subjects than from foreign enemies, instead of concerning himself with his subjects' welfare, he harbors suspicion against them. Especially against those who, whether through wisdom or riches, have great influence. Indeed, kings even fear their own sons, and all the more if they are gifted and beloved; for that reason they have princes educated in a way to prevent their becoming dangerous. The royal stewards are only too glad to do the king's bidding, that the successors to the throne may become mere puppets whom they will be able to control. Rulers apparently all powerful are, in truth, dead in law, and their subjects deserve commiseration.

A monarchical constitution should be so ordered that the monarch's power is greatest when he cares most for the welfare of the people. The peace of the people should be combined with the security of the monarch. The power of the king should rest wholly upon the power of the people, that they may be able to protect their liberty against the encroachment of the monarch. Thus fundamental laws should be established which the king cannot abrogate. As Odysseus permitted himself to be bound to the mast in order to be able to withstand the song of the sirens, so

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must a king be bound to a fundamental law, and a minister should refuse to obey him if his command violates that law. For kings are human, susceptible to the song of the sirens. It is a characteristic of monarchy that the king's will is law, but not all that he wills should be law. Legal words alone, however, do not suffice to secure the liberty of the people. The architect of a constitution must always consider the human passions; not merely determine what laws shall be enacted, but devise preventive measures, so that the people, whether they follow reason or passion, must always remain in the path of law.

A monarchy, therefore, requires the following regulations:

Land and houses should not be the property of individuals, but should belong to the state; and for their use the cities and the peasants should pay yearly tithes to the state. In the state of nature the individual can least of all assert his right—*i.e.*, his power—over land, since he can neither conceal it nor transport it. The land and all that is connected with it is, above all other things, subject to the power of all those who collectively protect it. That no one should possess immovable property is of the greatest importance to peace, for where a part of the citizens own the land, the community of interest and of feeling ceases and peace is undermined.

The army should consist of the citizens collectively and only of the citizens. Each should bear arms and be admitted to citizenship only after he is trained for defense service. The citizens should yearly engage in military exercise and should serve in the army without pay. Only in this way can they protect their liberty and be their own masters. If they give their arms and fortifications over



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to others, they have thereby given themselves in trust to others. The power of the king depends upon the size and faithfulness of the army; and faithfulness continues only so long as interest continues. For this reason in a state where the army does not consist of the citizens collectively, but of mercenaries (whether they are citizens or foreigners), the king will esteem the army above all other citizens and seek to attach it to himself by every possible means. In order to pay the idle troops a high salary, he will impose a heavy tax upon the citizens. Idleness during peace will bring the soldiers to debauchery; they will become poor and their minds will turn to robbery, war, and civil war. Since war is their occupation, when the state is in turmoil they will have the greatest power. They will treat with contempt the defenseless citizens who are not efficient in war. Such a monarchy is truly a state of war. Only the military will enjoy liberty; the others will be enslaved. A people who themselves bear arms will desire peace; they will merely desire to protect themselves and their property; liberty is their greatest reward for defense, their strongest and most honorable incentive to bravery.

The citizens should be equal; there should be no nobility except the royal family. An idle nobility engages in mischief. Kings often conduct wars merely to obtain peace and safety from the nobles who harass them.

It is natural to men that they should separate themselves according to descent. The equality of citizens will be best preserved if they are divided according to races and each race send the same number of representatives (three, four or five) to the king's council. The people's representatives should have attained the age of fifty years. A list of unimpeachable citizens over fifty years of age should be

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presented to the king and he should select out of every race three (or four or five) men having knowledge of public affairs. The election should be made for only three (four or five) years and one-third (one-fourth or one-fifth), selected by lot, should go out of office every year, and the vacancies thus created should be filled through appointment by the king. The council thus chosen should meet at least four times a year and advise concerning laws, war and peace, and all important affairs of state; and the king should not decree anything until he has heard from the council. The council should elect from among themselves a standing administrative court of about fifty members (so large a number that they may not be easily corrupted) and a superior court of justice (of about fifty-one members).

The council should be competent to form legal resolutions only when all of the representatives are present and when those who are prevented from attending are replaced by their adherents of the same race. Proposals should not be voted upon at once, so that representatives of each may advise with one another and eventually also with others of their class. Each race should have only one vote, and if its representatives cannot agree, that race should be excluded from voting. Those proposals which received at least one hundred votes should be presented to the king, who is to choose one of them which will become a law.

The reasons why a monarchical constitution is to be thus organized are the following:

The king alone cannot know all that is good for a state, and cannot order everything; he needs councilors to assist him with advice and action. Human nature is so constituted that everyone is bent upon his own advantage,

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regards as just that which favors him, and only receives anything new or strange in so far as he hopes thereby to promote his own interests. Therefore the king should be given councilors whose own welfare is conditioned upon the welfare and peace of all. In a council where every race is equally represented, it is quite probable that that which receives a majority vote will be of advantage to the majority of the people. It might be objected that in such a large assembly there would be many uneducated; but everyone will become sufficiently experienced in any occupation which is pursued long and eagerly. If only those are elected to the council who have attained the age of fifty years and have, until then, been busily occupied with a calling, they will be sufficiently capable of giving advice in affairs which concern their own welfare, especially if time is given them for reflection. Small bodies under the influence of their leaders are advised too easily. In a large council all conceivable kinds of considerations will arise; for, among so large a number of men, scarcely anything that could be for the welfare of the people could escape notice. The right and duty of the king is to elect and decide; that is the proper function of the king; and the people elect the king for the reason that they cannot agree among themselves. If they could do that they would subject themselves neither to one nor to a number, for everyone would rather rule than be ruled. That the dissensions of the masses may not lead to eternal discord, a king is intrusted with the exercise of power which the people themselves are simply incapable of: they are incapable of exercising the right of adjusting and deciding disputes. It is true, a king is often elected because of war—for a king is better fitted to conduct war than an

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assembly; but a people would be foolish who desired to be slaves in peace in order to conquer in case of war. Is, indeed, peace possible under a ruler who requires a war to prove that he has excellent and indispensable qualities? It redounds to the credit of a democratic constitution that it stands the test in peace much more than in war. Doubtless the great majority of a council would be opposed to war, for their property and liberty are endangered; they must bear the expenses; their sons and relatives must go into that field from which one returns home with nothing but wounds for which there is no compensation.

The councilors should not be elected for life; out of that would develop considerable inequality among the citizens; envy, unrest, and finally dissensions would also arise to welcome ambitious kings. Councilors who would not have to fear successors would permit themselves much license, and the king would not restrain them. The more the council is envied by the citizens, the more will they attach themselves to the king and court him for favors. Even a tenure of five years would be too long, for during that time a considerable part of the council could be bribed with gifts and favors. For that reason a part should leave office every year and the other part remain so that it may not be composed entirely of novices. Under such a constitution every citizen could hope to become a member of the council. It would be a strong spur to virtue, for ambition is one of the most powerful incentives. Inasmuch as all citizens bearing arms cherish this hope, they would not tolerate a reduction in the number of the council, and all would defend its rights with all their power. A large number of councilors is security against corruption. That the king may enact into law only a

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single one of the proposals in which at least one hundred races concur, is at once a security against corruption and, on the other hand, against the king favoring a small minority. It is to the interest of the king to win the favor of the majority of the people and therefore to approve those proposals for which the majority of the votes are cast—that is, those that prove to be for the welfare of the majority. In fact, whenever possible, the king should seek to get the concurrence of all in order to prove himself useful to all. The more he promotes the common welfare of all the people, the stronger will he become. A large number of councilors is also of service to the security of the king. The greatest danger threatens the king from those who stand nearest to him. The smaller the number of councilors, the more powerful they are. The less restricted the power of the king, the greater is the danger to himself, for it then becomes so much easier to transfer his power to another. On the contrary, from the many councilors who hold office a short time, the king has no conspiracy to fear unless he should attempt to rob them,—that is, the people,—of their freedom.

The people should, if possible, elect the king once for all; kingship should remain in the family of the king, be hereditary, and the succession be determined by law. Were the people, after the death of every king, to elect anew, and the power of the state to revert to the masses, it would mean the periodic recurrence of dangerous revolutions.

Concerning this constitutional plan, many will smile with a superior air. "The common people," they will say, "know no moderation. They are terrible the moment they know no fear. They are either cringing slaves

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or haughty tyrants. Knowledge of truth, power of judgment, are foreign to them," and so forth.

It is customary to limit vices, which are common to all men, to the common people. Human nature always remains the same. We permit ourselves to be blinded by power and education. If two persons do the same thing, we say: this one may do it, the other may not. Not the acts but the actors are different. All who rule are haughty. If one receives a prominent position but for a single year, he becomes puffed up, especially the nobles with their eternal honors. But they understand how to mask their arrogance with pomp and extravagance, their vices with a certain agreeableness, their ignorance with a cultivated pose, and their base character with an external decorum; and as a consequence their repulsiveness seems noble and honorable to the ignorant and inexperienced. That the people know no moderation, that they are terrible the moment they have no fear, is intelligible; to preserve a free spirit in slavery, is truly not easy. No wonder that knowledge of truth and power of judgment depart from the people, since the most important affairs of state are transacted behind closed doors and the masses can only guess what is going on from the little that cannot be kept secret. It is foolish to expect the people to form a correct judgment if the essential facts are withheld from them. To suspend judgment is, however, a rare virtue. If the people could temper themselves, judge correctly from the little that is known, or suspend judgment, they would not really need to be governed at all. Truth is violated everywhere, but most of all where the government is in the hands of one or of several, for these do not look to right and truth, but to power and riches.

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One may also urge against our constitution that the deliberations and conclusions of so large an assembly cannot be concealed from the enemy. But that is a lesser evil than to have the evil purposes and crimes of the tyrants concealed from the citizens. Those who have it in their power to transact the business of the state in secret have the state in their power. They lie in their ambuscade, constantly striking against the citizens. To intrust the public state to anyone unconditionally and thereby protect its liberty is unfortunately impossible. Even if secrecy is often an advantage to the state, it is still foolish to avoid a small disadvantage by committing the greatest of evils. It is the old story of those who seek after absolute rule: the good of the state requires the secret transaction of the business of the state. Under the larva of the patriot the oppressor is concealed.

We call a constitution aristocratic in which not one, but a number of the select men (patricians) hold the supreme power. It is of the nature of an aristocracy that the ruling body, once elected by the people, to maintain their number shall themselves elect new members in place of the deceased. If the right to elect new patricians remains with the people, they will have the supreme power and the constitution is not aristocratic.

An aristocratic constitution is superior to a monarchic, since the monarch alone is not able to bear the burden of government, while an aristocratic body is able to do so. It does not become sick and does not die; its will is not so vacillating and whimsical as the will of a monarch. It is not so necessary to limit the power of an aristocratic body as it is of a monarchy. The will of a monarch should not always be law; on the other hand, it is peculiar to an

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aristocracy that the will of the ruling body should unconditionally always be law. What keeps an aristocratic government in check is its fear of the popular masses, of their natural power, even if that power is not vested in law.

Aristocracy would be incomparably the best government if the select men, always electing the most efficient as colleagues, would concern themselves for the good of all. Experience shows that this is not the case. Patricians regard those as efficient who are related to them, who have befriended them or are rich.

The number of patricians should at least be one-fiftieth of the population. There may be more; the danger lies in too small a number, for if there are too few they are too powerful; they will attempt to overcome one another and thus disrupt the state. Power should be distributed among many. Let us assume that in a state of medium size there are one hundred excellent, noble men, considered good enough to be intrusted with the supreme power of government and that vacancies are now to be filled. It is absolutely certain that these excellent and noble men will elect their own children and relatives as successors. Simply to forbid this would be irreconcilable and incompatible with an aristocratic constitution; the people would have to watch over it to prevent it; but according to the principles of this constitution, the people have no part in government. Thus the supreme power will always go to those patricians upon whom an accident has bestowed children and relatives. Among a hundred men whom an accident has elevated to this honor, there will not be more than three who are efficient, but these will control the rest with leading-strings, and each one of these three will seek for himself sole power; for that reason, if a hundred noble



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patricians are required for the government, at least five thousand should be elected. It may then be hoped that there will be one in every fifty who is worthy.

Only so large an assembly can be intrusted with almost unlimited power of government without having to fear oppression of the people. It is to be hoped that reason, not license, will determine the transactions of this numerous body; for evil separates men, only the good can unite them for a long time.

With the increase of population the number of patricians must be correspondingly increased. To the rank of patrician only those are eligible who have attained the age of thirty years. This will also prevent the government remaining in the hands of a few families and an aristocracy from becoming an oligarchy.

The patricians must be pledged under penalties to take part in the assembly, so that the majority will not neglect public affairs in behalf of their own.

The patricians as a body should pass laws, decide concerning war and peace, levy taxes, appoint a commander of the army, elect the senate and constitutional attorneys (syndici).

The senate, a committee to control the body politic, shall be elected annually from those who have attained the age of fifty years, the number to be about one-twelfth of that of the entire body of patricians. They should be eligible for reelection after two years. Thus the management of the state will be placed in the hands of experienced, intelligent men and thereby the equality of the senate will be secured; each will hope to become a participant in this honor and will jealously guard this right. Where the state consists of a number of cities, the entire body of patricians

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will seldom assemble; the proposals of the senate will be presented to the assemblies of patricians of the individual cities. Since the senate is not in continuous session, it will elect a directory which will represent the senate, convene it, present to it the subjects and motions for consideration. The directory shall be elected for from two to three months and shall be composed of a sufficient number of members (thirty) to prevent their being bribed and to prevent a loss of time occasioned by the absence of one or two members.

Upon the constitutional attorneyship devolves the protection of the constitution against the patricians in the interest of the whole people. It is an essential authority in an aristocratic government. This authority sees that the number of patricians maintains a proper proportion to population; that no one under thirty years is elected as a patrician and no one under fifty years as a senator. Every law requires their approval; they hear the complaints of the subjects against the authorities, and judge and punish them. A part of the military is placed at their disposal.

As Machiavelli shrewdly observes, something happens daily in the state, as in the human body, which from time to time requires a cure, and this must be dealt with at the right time or else the injury will be beyond recovery. Institutions must be created so that the daily injuries to the constitution will be repaired. In an aristocracy the constitution is endangered so much the more, because it is not to be expected that the patricians will punish their own colleagues or make of themselves horrible examples. From this results the necessity of constitutional attorneys. In consequence of the aristocratic principle, they are also patricians and are elected by the entire body of patricians; but they should be men who have already been senators

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and who have attained the age of sixty years. At this age one loves the permanent, the old, and the secure, and is disinclined to new ventures. They should be elected for life and not be permitted to hold any other office; those are not fit for guardians of the law who themselves might later come into a position in which they would be tempted to break the law. Their number should be in the same proportion to the patricians as the latter are to population—one to fifty. Thus they will form a body sufficiently large not to be corrupted and not to fear criminals, for they do not act as individuals, but in council, in the name of the entire constitutional attorneyship. Since the performance of their official duty will unavoidably enlist the hatred of the patricians on the one hand, and the esteem of the people on the other, they will concern themselves all the more with winning the favor of the people. If once they punish an unjust judge, it will attract wide attention and make a deep impression upon the people. And even if punishment does not often take place, the effect will be lasting.

This kind of a constitutional attorneyship has power enough to prevent evil, but not enough to be able to cause evil.

There must be such an organization that state officials will promote their own interests most when they most truly serve the common welfare and suffer grievous injury when they administer the affairs of the community badly; for no one will serve an alien cause if he does not thereby hope to serve himself. This principle should be kept in view in compensating state officials. In an aristocratic constitution where the affairs of state devolve upon the patricians alone, and the majority of the people follow their own pursuits, it is proper to recompense state officials.

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In accordance with the above principle they should be granted no fixed salary, but an income consistent with the proper performance of their official duty. For example, if a capitation tax, though very small, is to be paid to the constitutional attorneyship, the population should be carefully taken into account; if every newly elected patrician must pay a fee to the constitutional attorneyship, if the fines collected from the patricians who absent themselves from the sessions fall to the constitutional attorneyship, the latter will take special care to see that the new elections, provided by the constitution, will take place, and they will investigate to see whether, in the full assembly and in the senate, all members are present. The income of senators must be so determined that peace will be more profitable to them than war. This will be the case if they are paid out of the customs duties. There should also be a law to prevent senators from holding a military office and their sons from being appointed commander of the army. Then senators will only advise war when it is unavoidable. Even if the incomes of the constitutional attorneys and of senators should be high, peace and liberty are never purchased at too high a price.

In an aristocratic constitution it is not necessary to divide the whole people into races. Here the soil should be private property in order to bind to the state those subjects who have no part in government.

It would be a mistake to keep the non-patricians from the army. They fight bravely who fight for home and hearth. It would also be a mistake to withhold from the non-patricians the right of becoming officers; it would take from the warriors the incentive to fame and honor. The leaders of the army should be elected for one year from

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the ranks of the patricians, but not until they are actually engaged in war; and they should not be reëligible. This is also true of monarchy. History sufficiently teaches how dangerous a military commander may become for monarchies as well as for republics.

The supreme power must remain with the body of patricians collectively, the executive power with the senate and the constitutional attorneyship, and the leadership of the senate with the directory. The secretaries and administrative officials of these governing bodies should be taken from the people, since they have no right to vote. It should be observed that such officials, in consequence of long years of experience in the affairs of state, become so expert that they may obtain a decisive influence, so that they govern, in fact, while the greater part of the patricians are inactive and inefficient. The state is then in a situation similar to a monarchy which is governed by a few courtiers. The secretaries of the governing bodies should therefore be appointed only for a number of years and their duties be divided among several, so that no one may gain too great an influence. If a government is good the patricians take the credit for the advantages it confers and for the fame of its well-being and its liberty. If an aristocracy is bad and stands upon weak legs, the patricians appoint ambitious men from among the people in order to offer them as a sacrifice to the anger of the masses when revolution threatens.

The constitutional attorneyship may indeed prevent the breach of laws, but it cannot guard against the creeping in of vices which cannot be prevented by laws—vices of peaceful prosperity: idleness, effeminateness, luxury, debauchery. Attempts have often been made to legislate

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against luxury, but in vain. Laws which can be violated without injury to others are not taken seriously. The question here is not merely what things are to be prohibited, but what things are to be prohibited with extreme measures, and that is difficult to determine. The prohibition which should restrain often spurs on. One must counteract this evil indirectly. Thus one may even stimulate general human avarice through ambition in order to check extravagance. If those patricians who have squandered their property and are solvent are deprived of their rank, the fear of disgrace will check their luxury. Stipulations of this kind, suited to the character of the people, must be contrived by the lawgiver, so that the subjects will do their duty far more from their own initiative than from the coercion of law. A state which seeks to control men solely through fear will perhaps have no vices, but also no virtues.

Statues, triumphal processions, and similar means of promoting virtue are not suitable for free men. Only slaves are rewarded for their virtue. It is true, distinctions of this kind spur men on mightily. But if granted to high-minded men to begin with, they will later be bestowed upon the cowardly rich to the exasperation of all good men. The descendants of the distinguished will imagine that they are unjustly dealt with if they are not given preference. And the moment prominent men are legally admitted to special honors, equality will end and liberty will also perish.

(This work of Spinoza remained unfinished, hence the description of a democratic constitution is lacking.)

## CHAPTER IX

LOCKE (1632-1704)

### INTRODUCTION

**JOHN LOCKE**, the father of modern criticism, was born as the son of a small landowner and lawyer who played an active rôle in the Puritan revolution. The moral and political atmosphere of his early home deeply influenced his whole career and he remained loyal to his paternal traditions throughout life. He studied at Oxford and his versatile spirit eagerly embraced all the knowledge of his epoch in theology and philosophy, natural sciences and medicine. Among many others he studied Descartes and Malebranche and was in personal relations with Newton and Huyghens. During his studies in Oxford he made the acquaintance of Lord Ashley, later Earl of Shaftsbury, who became one of the most prominent leaders of the Whig party. This acquaintance grew into an intimate friendship and he made frequent visits to the London home of Shaftsbury, whom he served partly as secretary, partly as friend and physician (though he never took a degree in medicine). In the home of his aristocratic patron he became acquainted with many illustrious men through whose influence he came to join the Royal Society, on whose councils he served later. In 1664 he went to Berlin as secretary of the legation. His feeble health obliged him later to pass some years in southern France, but there is evidence to suspect that



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*this trip was not entirely motivated by this consideration, but that he also had political reasons for abandoning the English capital where his patron had some difficulties fighting the dark absolutism of the restored Stuarts.*

*When in 1679 Shaftsbury regained power against the court party, Locke returned to London and continued his scientific activity. It was a period of plots and counterplots when England seemed on the verge of another civil war. The reaction assailed Shaftsbury vehemently. He was committed to the Tower, tried and acquitted. These political troubles, the insecurity of political liberty, the growing reactionary and Catholic tendencies of the Stuarts, and the reign of the insipid political doctrine of Filmer, surely had a great influence in developing and strengthening the liberal traditions of Locke. Especially the spirit of religious intolerance both of the Puritans and of the Independents exasperated very much the spirit of the man so deeply and passionately indebted to scientific and philosophic studies. He himself wrote this striking characterization of his epoch: "What was called general freedom was general bondage, and the popular asserters of liberty were the greatest engrossers of it, too, and not unfitly called its keepers."*

*These political and moral excitements must have been very alarming to a man who suffered through his whole life from chronic consumption and asthma. When in 1682 Lord Shaftsbury was obliged to fly to Holland, Locke tried to continue his work at Oxford undisturbed by the fate of his patron. His attitude was very near to an abandonment of his former friend and he was characterized by his suspicious enemies as a "master of taciturnity and passion." But we cannot be certain whether this change in his behavior was an act of cowardice or because of a difference in principles with*

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*his former master. At all events, he retired a year later and went to Holland, the famous home of many refugees and isolated thinkers where Descartes and Spinoza, where Erasmus and Grotius, had speculated and which now became also an asylum for Bayle. He passed five long years in exile which sat heavily upon him, though he was in frequent intercourse with many illustrious spirits of this period so fertile intellectually. During his stay in Holland he contributed several articles to the then famous magazine, Bibliothèque Universelle, and it is interesting to note that he made his first appearance as an author after he was fifty-four years of age. This was characteristic of his great modesty and self-criticism. (An earlier work of his, the famous plan of a constitution for the Province of Carolina, written in behalf of Shaftsbury in order to introduce liberal principles into the American Colony, remained anonymous.) But his exile in Holland became even more significant for his future, as he made there the acquaintance of William, Prince of Orange, who became king of England after the so-called glorious revolution which put a definite end to the Stuart tyranny. William landed in England in November, 1688. Locke followed the sovereign in February of the next year in the same ship which carried Princess Mary of England.*

*Under the constitutional and liberal rule of William III he enjoyed the prestige and authority of the chief philosopher of the new freedom. He got a sinecure office, and immediately after his return, in two consecutive years, he published the three works which secured his immortality: the Epistola de Tolerantia, the Two Treatises on Government and the Essay Concerning Human Understanding. His health becoming more impaired, he retired to the country home of a friend at Otes, near London, where he passed his last fourteen*

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*years, consecrated to a marvelously fertile scientific activity in philosophy, economics, theology, and education. His Thoughts on Education is still regarded in England as a masterpiece in this matter. Approaching death, his mind was very busy with theological problems and his Reasonableness of Christianity is a serious and sincere endeavor to reconcile Christianity with reason, a task undertaken later by Kant and Tolstoi with the same purpose.*

*In his literary activity the chief claim of Locke to glory is his philosophical inquiry concerning human understanding by which he became the founder of a line of thought which, followed and developed by Hume and Kant, dominated many of the best philosophic achievements of the nineteenth century and which profoundly influenced even the broader strata of public opinion in the movement of the Aufklärung, the so-called enlightenment movement which tried to liberate the human mind from all kinds of religious or political prejudices. Locke taught a radical empiricism, rejecting every form<sup>1</sup> of innate ideas, and he regarded the human mind as a tabula rasa, a white sheet of paper on which we cannot find other things than those engraved by experience.*

*In his three letters on Tolerance he made a vast and systematic effort to undo all kinds of religious bigotry, but it is highly characteristic of the mental atmosphere of his time that even such an advanced thinker as Locke did not extend his tolerance to Catholics and atheists. In his political writings he appears as the counterpart of Hobbes. Gumpłowicz in his usual sarcastic manner portrays this antagonism by saying that Hobbes was the pensioner of the Stuarts and Locke the pensioner of William III. But the expression of the difference in such a crude financial way touches only what is merely superficial in the careers of the two great men*

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*and does not take into account their real differences in philosophy and morality. It is quite certain that Locke would have remained the ardent philosopher of a constitutional monarchy even if William III had been unsuccessful in getting the crown of England. In his first treatise on government he destroys the patriarchal theory of Filmer, who bases the absolutism of the king on the childish assumption that this unlimited power originates from the patriarchal authority of Adam, who transmitted it from time immemorial to his descendants. The argument of Locke was now only of historical interest because the main trend of Filmer's theory had already been successfully refuted by Algernon Sidney, who paid with his life in 1683 for his courageous attitude. The most important elements of Locke's political thinking are contained in his second treatise on government which may be considered as a thoroughgoing and convincing criticism of Hobbes's political philosophy. In this enterprise Locke developed another kind of state of nature, directly opposed to the assumptions of the pessimistic theorist. The state of nature reconstructed by Locke, and which he regards not as a theoretical construction but as a historical reality, is the realm of reasonable freedom and equality. The social contract which created the state was only a corroboration of and a guaranty for those natural rights which the individual had already enjoyed in the state of nature. On this basis, which is near to the conception of Pufendorf and Grotius, Locke deduces the main arguments for a constitutional monarchy and a democratic parliamentarism. In this connection he is the first to develop the theory of the division of powers with perfect clearness. His division is a dual one between the legislative and the executive, for the third power, which he calls "federative" and which deals with international relations,*

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*forms only a part of the legislative. This theory revolutionized the whole political thinking of Europe and found its complete and final expression in the famous tripartite division of Montesquieu, who added to the distinction of Locke a third independent power, that of the judiciary.*

*Generally speaking, we can say that all the liberal principles which prepared the French revolution, were already foreshadowed by the English philosopher, not excepting the volonté générale of Rousseau and the right of resistance against tyrannical rule called by Locke an "appeal to Heaven." All these deductions of Locke cannot be regarded as strictly original, but rather as a continuance and amplification of the previous theories based on the law of nature. But on two points the system of Locke seems to be sharper and more explicit. The one is that the individual and not the state becomes the chief person in the social drama; the other that he clearly realized and emphasized the unbridgeable gulf between Might and Right, that Might cannot be Right even when people cannot rebel against it.*

*The universality of Locke's spirit is further demonstrated by the fact that outside of his philosophic and political studies he was equally a pioneer in the economic thought, and Ricardo and the other great masters of modern economy were deeply influenced by his teaching. Especially his demonstration that labor is almost exclusively the producer of wealth and that there would be sufficient land for men even in his period if the greed originated by the invention of money had not led to the accumulation of landed property in private hands, was later reassumed by socialist thought.*

*As a matter of fact, the philosophic and scientific thought of Locke had a greater grasp upon the liberal thought of his generation than that of any other man. Bayle called his po-*

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*litical treatises "the gospel of the epoch." His spirit of compromise, of moderation, of sane common sense was perfectly adapted to the Whiggish practical work. His aversion to abstract speculation, his suspicion of mysticism, his calm reasonableness, were the adequate expression of the genius of his race, which, perhaps, without the higher gift of speculative imagination, avoids the dangers of romantic sentimentalism and metaphysical obscurity.*

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**I**N THE state of nature men are free and equal; each lives according to his own liking; independent, subject to no other will. This freedom is, however, not libertinism; there rules a natural law, reason, which (because men are equal and independent) commands that no one shall impair the life, the health, the freedom or the property of another. The freedom and preservation of all men—that is the natural law, the command of reason. If one transgresses this law, each has the right to punish him, for they all are endowed with equal right to protect and execute the law. Reason, not blind revenge, determines the degree of punishment according to the transgression, so that the evil will be compensated and similar acts prevented in the future; so that the evil-doer will repent of his act, and he, as well as others, will be restrained from such misdeeds. There can be no doubt that there is such a natural law, clear and distinct to everyone who has reason; more distinct than many written laws which private interests have clothed with confused language. But if asked, when and where were there men in this state of nature, the reply is: even today and everywhere the governments of independent states stand in this relation to one another. Treaties and alliances between states do not break up the state of nature as long as they do not bind the states into a united society. Moreover, treaties are also binding in a state of nature. It is the duty of men to keep faith with men. It is wholly erroneous to



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confuse the state of nature with the state of war. The former is peace, good will, mutual helpfulness, and preservation. That men live together according to reason, without any magistrates who have exclusive authority to direct them—that is the state of nature. On the other hand, the state of war is enmity, ill will, force, and destruction.

If in a state of nature it becomes evident, through deed or word, that one seeks the life of another, the offender thereby brings about a state of war and the one injured has a right to deal with the offender, who has placed himself above the law of reason, as he would with a wild beast. The same, if one attempts to rob another of his freedom, or to bring him under his power, or enslave him. For he who threatens liberty, threatens all. Also, in a state there arises between me and a robber, who threatens violence, a state of war, even though there is a court, if I do not have time to apply to it. Since the help of the court would come too late, I have a right to ward off actual violence. But if the necessity for self-defense does not exist, or if it has passed, those who live in a state cannot be allowed to engage in a war, but if an injury threatens or is met with, they must apply to a court for a remedy. In a natural state, where there is no judge on earth, one appeals to Heaven; he resorts to war. Thus from petty disputes there arise long-continued wars; and this is one of the important reasons that impelled men to get out of the state of nature, to found states and inaugurate magistrates who should settle their disputes.

In the state of nature, the earth and everything that grows upon it and the animals that feed upon it, all belong to men in common. These things are given to all

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for their preservation and welfare; no one can assert an exclusive claim to anything that nature offers. Yet each has something that is his own, concerning which he himself and no one else may dispose: the power of his own body and the labor of his own hands. Now if he applies labor to something in nature, he has added something concerning which he alone may dispose and thereby the thing ceases to belong to all and becomes his own property, provided there is enough, and just as good, left for others. Thus the fruit belongs to him who plucks it or gathers it, the animal to him who slays it. His labor takes it out of the natural state in which it belonged to all. For this he requires in no sense the approval of all others. Had man regarded the approval of all as necessary for anything of this kind, truly, in the midst of the abundance of nature, he would have died of hunger. Nature places limits upon property; no one should appropriate more than he can consume; he has no right to more; it belongs to others. For it is given for use, and it is richly given (I Timothy, vi: 17). As regards the appropriation of land, the same natural law applies: as much land as one cultivates and the produce of which he consumes, belongs to him. As long as there is enough and just as good land left for others, there can be no complaint; the owner has not curtailed them; rather through his labor he has significantly increased the supply of the means of life. It would be unjust to take from him that which he has produced by the sweat of his brow.

Thus labor, to which necessity and the divine command forced men, created property. Labor was the original title to property. Through the fact that man is master of himself, of his own labor, the primeval cause of property

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is within himself. If it appears doubtful whether the power of labor applied to property could outweigh the common right to the soil, consider the difference between the yield of cultivated and uncultivated land; compute how much labor it costs till the seed becomes bread, how much is applied to produce the tools—the plow, the mill, the oven, and the rest—and it will be admitted that nine-tenths, yes, ninety-nine one-hundredths of the value is to be ascribed to labor.

Even today, regardless of the increase in their number, men could live together untrammelled under the natural law of property—for there is enough soil to support all—had not the invention of money made men greedy and misled them to insatiably increase their possessions. That natural law which limits one's property to the amount which he can make personal use of is supported by the fact that those things which are necessary to support life for the most part deteriorate and therefore become worthless if they are not used. To store up more than was necessary was not only unjust, but also senseless. Moreover the injustice was obvious; he who did not allow anything to go to waste, who used everything he had, did not transgress the proper bounds of property, did not curtail the common supply. But then the wonderful imagination of man conferred upon a vain, shining metal a greater value than upon things actually necessary. A large quantity of the latter was given in exchange for a small piece of the former, and this metal, preserving itself perpetually, could be stored up without limit. With the invention of money, men began greedily to increase their property beyond the measure of necessity, each as much as he could; and mankind, in putting money to general

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use, silently consented thereto. It gave rise to the inequality of possessions.

In the state of nature it is wholly compatible with equality that age, bravery, talent, and the good deeds of one should elicit the esteem of others, for that does not terminate equal rights for all; it establishes no privileges, no government in which one could prescribe laws for others and, through penalties, force them into subjection to his will. Children, until they are old enough to obey the command of reason, are to a certain degree under the control of their parents. The natural duty of parents to educate their children implies that they may command and discipline them. But this right, which is rather a duty, may only be exercised by the parents for the good of the children in order to promote their physical and spiritual development. This right belongs to the father no more than to the mother, and ceases when the children are grown up; then there remains only the duty of the children to honor and care for their parents. It is contrary to reason to speak of a paternal power in a sense as if the father were unlimited master over the body, life, liberty, and property of his children. There has been an attempt to deduce from this alleged paternal right the political power and absolute rule of kings, and to justify despotism. But that is preposterous.

Let us place ourselves at the beginning of development, at a time when the earth was still sparsely populated, when individual families were separated by wide, uninhabited stretches of land. What would be easier, more natural, than that the grown-up children, since they could scarcely live together without a leader, should further yield to the secure and careful leadership of the

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father, apply to him in all their quarrels, and depend on him alone to give validity to the natural law, to execute it, to bring about a consummation to which each is entitled by nature. Thus the father also obtained control of the marriageable children, which control was far more in the nature of protection than of force. And so the fathers of families became rulers of families, not, however, by virtue of a natural paternal right, but by reason of an expressed or implied consent of the members of the family, who found the surest protection of peace, liberty, and property in the rule of the father.

The natural relation between parents and children is not political. Parents have by nature no right to prescribe laws for their descendants and to secure them through penalties, no power over life and death. The family is not a political society.

Marriage, with which the family begins, is also not a political relation. It gives the husband no right over the life of the wife, nor the wife over the life of the husband. The purpose of a union between husband and wife is the maintenance of the species. That is to say, not merely to bring children into the world, but also to support them until they are able to support themselves. Among herbivorous animals the male does not concern himself with the female after coition, nor with the young; for they are nourished from their mother's breast until they are able to find their own food. Among beasts of prey and among birds the assistance of the male is necessary for the support of the offspring, therefore the male and female remain together for a longer period. With the human species the reason for the continued union between man and wife is, that the wife may bear new children before the

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earlier ones are able to sustain themselves independently, and for that reason the father must care for these. But in loose sex relations the fulfillment of this duty would be uncertain. That the union, however, should be for life, inseparable even after the children are reared, no adequate reason can be found, in the nature of the thing.

Since man and wife have a common end but a different mind, it is inadmissible that either of the two should have the right of decision; that belongs to the husband, for he is stronger and better adapted for it. But that is in no sense a right over life and death, it is not a political right, no right to govern. Such a right does not follow as a consequence of marriage.

Political power is the right to prescribe laws for a society, to secure the observance of these laws through penalties, even the death penalty, and to command the entire power of the society; all this in order to protect the possessions—*i.e.*, the life, liberty and property—of all members against individual members of the society as well as against foreign enemies. While in the state of nature everyone must himself protect his possessions—life, liberty and property—and deal with the offender according to his own standard, in a political society, in a state, this natural right no longer exists, but those empowered by the community have the exclusive right to control and punish, and that in accordance with the laws which have been determined by the community. Since men are by nature equal, free, and independent, they may be legally subjected only to the political power of others with their own consent. A state can only arise if a number of persons unite themselves in the sense that each individual renounces his natural right to execute the natural law,

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transfers this right to the community, and places his own power for this purpose at the disposal of the community. In this agreement there is at the same time included the decision that henceforth the majority of the members are to decide, that their will shall be regarded as the decision of the entire community. Without this determination, the union would, in fact, have no sense. If each one, after the agreement, as before it, were pledged only to that which he himself thought good, he would be pledged to nothing and each would retain his natural liberty. If the approval of all were necessary for an agreement, the community would probably never come to a decision; it would be incapable of maintaining itself and would at once fall to pieces.

But what prompted men to give up their natural liberty?

The state of nature was filled with danger and fear. Of course, if all were able to follow the natural law, the command of reason, a political state would not be necessary; mankind would be united into a community through reason. It is, however, easy enough to perceive the command of reason, but not everyone reflects upon it, and too often men are blinded by a momentary advantage. Therefore it is necessary to have fixed, explicit regulations, known to all, to determine what is just and what is unjust: laws are necessary. Where each is his own judge and executes his own judgment, passion, revenge, and barbarity rule. There must be impartial judges. In the state of nature one may be completely in the right, yet a wicked man who is stronger will destroy him. A judge must have the necessary power to give validity to the law. Then men will be inclined to give up their own right of

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punishment and place their power at the disposal of a common judge who decides according to a law agreed upon. Men will unite into a society when its members prescribe laws and permit them to be executed through authorized agents. The liberty of the individual will thereby be limited, but he will gain the support of the entire community. True, he himself may no longer punish, but the power of the entire community will requite the injury inflicted upon him and protect his life and his liberty, within the bounds of law, against other members of the society as well as against those who are outside of the society.

Thus a state becomes established through the agreement of a number of persons who unite themselves to live together in peace and to protect themselves in common against others, and who, for this purpose, subject themselves to the will of the majority. That was—and only that could have been—the beginning of every legally constituted government. Thus a voluntary union of independent men founded Rome. And since men only gave up their liberty and equality in order to improve their condition and to avoid the evil of the state of nature, it is evident that the power of all should be used only for the welfare of all; and whoever may be intrusted with the disposal of this power should rule according to known, fixed laws and not according to laws suddenly determined according to a whim; he should permit legal decisions to be pronounced through an impartial judge, and he should employ the power of the community only to execute laws, to ward off attacks from without, and to bring about peace, security, and the general welfare.

Having determined the kind of government through



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agreement, the people should elect the rulers. That the original community stood under the rule of a single person is intelligible. Where the community life grew out of the family, the father was, for the most part, best fitted to govern; as the members were all accustomed to have him care for them, they obeyed him. It was also logical that after his death the eldest son should succeed to power; but if the father or his heir were not fit to rule, or if a number of families united themselves, it is certain that they would elect as ruler the one they considered best fitted to rule. That they elected one, and did not provide for some other kind of government, has its reason in the fact that from childhood they had become accustomed to have one, the father, lead them, and they felt that it was thus best for all; they had no occasion to think of another kind of a government. The paternal rule was inspired by an equal love for all; they had not yet felt the yoke of a tyrannical rule which would impel them to think that it was necessary to distribute the power into the hands of many. Under such simple relations there was no need for numerous laws and officials; it was sufficient to have one as a ruler. Not only was it sufficient; it was best suited to the purpose. For the chief purpose of the agreement was the common protection against external enemies. Indeed, there must have been a mutual trust and friendship, since they united themselves not primarily to settle and end their own disputes, but rather to ward off foreign power. Then they needed a man, brave and wise, who would lead them in battle against the enemy. That was the essential task of the ruler. The chiefs of the Indian races and the judges and first kings of the people of Israel were, above all, leaders of the army. The

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power of government was intrusted to the highmindedness of one man that he might apply it to the welfare and protection of all, and it may be assumed that the kings of remote antiquity administered their office honestly. But later, ambition, selfishness, lust, misled the rulers to abuse their power and the people turned their thoughts to measures to restrain them.

He who may prescribe laws for others has the supreme power of the state. Through the creation of a legislative power the foundation of a state is laid, and the state of nature ends. The essential difference between different constitutions depends upon whom society has conferred absolute power of legislation. Where the people themselves assemble from time to time, and the will of the majority determines laws and elects officials, and executes the laws, there a democracy exists in the true sense of the word. If the people intrust legislation to a number of select men and their successors, it is an oligarchy. If the power of legislation is given to a single individual, whether for a definite time or for life, or if they provide that the power descend to his heirs, the constitution is monarchical. Also, the legislative power may be intrusted to a number for life or for a definite period. And so different kinds of constitutions may be organized.

Now whether the legislative authority consists of one person or of an assembly, its power is, in fact, supreme in the state, but it is not unlimited. The end for which the legislative power was created places bounds upon it. It must serve the maintenance and welfare of all; it has no right to force the subjects into slavery and misery. The legislature was established to put an end to the uncertainty of the state of nature; it must also pass valid and con-

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sistent laws, and publish them, and it must not govern through conclusions suddenly reached, as cases may arise. It is preposterous to suppose that men would have granted to one or to a number unlimited power to dispose arbitrarily over the life, liberty, and property of all. That would be incomparably worse than the state of nature. It would be as if the people had disarmed themselves and armed their rulers in order to become their prey. To be exposed to the force of a hundred thousand individuals with whom one is on an equal footing is far less dangerous than the absolute will of one man who has at his disposal the force of a hundred thousand.

Since the protection of property is the object of the state, no government, whatever kind it may be, should diminish the property of its subjects, unless with the agreement of the majority of the people or of their elected representatives. The lawgiver has a right, in respect to property, to regulate the relation of citizens to one another, but not to impose taxes upon them according to pleasure. If there were no restrictions upon the taxing power, there would be no private property: it is no longer private property if one may be deprived of it without his will. Especially where legislation is in the hands of a monarch or in an assembly whose members hold their position for life or where it is inherited by their descendants, would the right of taxation lead to exploitation of the people. This is less to be feared where the members of the lawmaking assembly are elected for a definite period and later return to the ranks of the subjects and become subject to the laws as others are.

Neither does the lawgiver have a right to delegate legislative power to another. His sole power is to create

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laws, not lawgivers. The people alone should decide who shall make their laws.

Laws which are valid for a long period may be made in a short time. It is not necessary that the lawgiver be always active, that the legislative assembly be always in session. On the contrary, those who are intrusted with the execution of the laws and the supervision of their execution, should be at work all the time. It would be too great a temptation to intrust the power of legislation and of execution to the same person. They would, instead of creating laws for the general welfare, enact them for their own advantage, or they would withdraw themselves from the operation of the laws. It is better to place the legislative and the executive power in different hands. The lawgivers should, after the execution of their task, disband and be subject to the laws created.

In addition to the making and the execution of laws, there is another, not less important task of government: to protect the interests of those who belong to the state against the people who are outside of the state society, to conduct war, to conclude peace, treaties, and alliances, with other states. This function, the federative, to be predetermined by law, is a difficult one, because it depends upon the attitude of other states. One must leave it to the wisdom of the one to whom it is intrusted. In order to be prepared for his task he must have the entire force of the community at his disposal, the same as the one who has the execution of the laws. But it would lead to division if two had at their disposal the power of the community. Therefore the federative and the executive power, in spite of their different functions, could hardly be placed in different hands.

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The holder of the executive and federative power must be subject to, and answerable to, the lawgiver. Nevertheless, he might well be intrusted with the power of calling together, at definite periods or according to need, the legislative assembly and, where it is elected from time to time by the people, of dissolving it and ordering a new election. But such a power, if granted, must not be construed as a right to be exercised arbitrarily but rather as a duty which is imposed upon the king for the good of the state, because, on the one hand, it would be superfluous, even injurious, to have the legislative body remain in continual session; on the other hand, its assembling outside of the legal period may become a pressing necessity, and this necessity can best be perceived by the one who is intrusted with the execution of the laws, who must always be active and watchful.

The holder of executive power may also act without law or depart from a given law if the welfare of the state urgently demands it, if important interests would be neglected or a long-drawn-out decision of the legislative assembly would cause too much delay. He may moderate the rigor of the law in certain cases, exercise clemency, even spare criminals, if the general welfare of the state is not thereby endangered.

These privileges—prerogatives—of the executive power are in consequence of the fact that in law all things cannot be determined in advance. They are exercised in accordance with the highest law—the welfare of society. If the people observe that a prince concerns himself with the general welfare, they concede to him many departures from the legal order. With good and wise kings, the prerogatives are extended; unworthy successors, blinded by greed

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and flattery, would misuse the prerogatives against the people, and if the people oppose them and limit them, they exclaim with indignation, "Encroachment of the people on the prerogatives of the king!" A preposterous assertion. To be permitted to do good, what is best for the people without law—that is the idea of the prerogative, but not that princes, disregarding the general welfare, may serve their own selfish ends and treat people as their herds.

Even where the prince has a share in legislation, where his approval is also necessary for a law and where he is not subject to the legislative assembly, he should not rule otherwise than according to the laws which he, together with the legislative assembly, has created. The obedience which the subjects owe him is a legal obedience; the oath of fidelity which they pledged holds also for the executor of the laws.

If the king, holder of the executive power, hinders the activities of the legislative assembly with force, the legal status comes to an end and a war against the people begins; and then nothing remains but an appeal to Heaven—to force power with power. It is generally admitted that one may justly oppose an official who exceeds his authority and applies force beyond the legal limit, for he is then no longer a personal magistrate; nor is there any reason why this should not apply as regards the highest official. But, it will be asked, who is to judge whether the prince or the legislative assembly has violated his or its duty? The people. It is the duty of the prince to find out whether his agents have honestly executed their commission and to remove the unfaithful. If the king does not govern according to law and not for the good of the

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people, but for his self-interest and according to his pleasure, he will become a tyrant. But tyranny will mean the overthrow of the state and a renewal of the pre-state condition of war. The same is true of a legislative assembly which does not regard itself as guardian, but master of the life, liberty, and property of the people by subjugating and robbing them. It also means a subversion of the constitution if the king abuses his power and authority, as regards the offices and the public treasure, for the purpose of forcing the representatives of the people or the electors themselves, or for the purpose of bribery in order to enact his arbitrary will into law. When the old constitution is overthrown, the people have a right to erect a new one, and to trust it to another king and another legislature. A dangerous theory! I hear it said, a fostering soil for rebellion. No more dangerous than any other theory of state. Even if one deduces the ruling power from the grace of God, the people will, in spite of that, throw off the yoke. Is it, moreover, the people who rebel? *Rebellare* signifies to renew war. The rulers who use their power against the aim for which men united to form a state society, in truth, are the ones who rebel, that is, the ones who conjure up the former state of war.

The people are not lightly given to revolution. They adhere to the old constitution; they would rather accustom themselves to notorious defects than to change it, and even after a revolution, they always tend to revert back to the old institutions. They endure a great deal of injustice and great misdeeds patiently until they finally are compelled to admit that, instead of adhering to old names and peculiar forms, it would be better to change the government and place it in other hands.

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But might does not become right even if one cannot resist it. The power of conquerors, of victors over the vanquished, is a continuation of war, not a political rule. Political power has its origin in the agreement of the people and rests upon the consent of the people.



## CHAPTER X

### MONTESQUIEU (1699-1785)

#### INTRODUCTION

*CHARLES DE SECONDAT, Baron de Montesquieu, as he is called by his full title, was born twenty-five years before the death of Louis XIV in the château of his father near Bordeaux. In his twenty-seventh year he became president of the Parliament of Bordeaux, which was a kind of feudal tribunal; but he disliked his bureaucratic office because from his early youth all his interests were centered in scientific studies. Extremely timid, though very sociable and of a kind disposition, he preferred a life among his books and a congenial friendly circle. He sold, therefore, according to the old feudal privilege, his office and retired from all public activities, devoting his whole life to his philosophic and scientific investigations. In spite of this, Montesquieu was not at all a bookworm, but a man extremely desirous of knowing and understanding the social and political reality of his epoch. For this purpose he traveled extensively in Austria, Hungary, Venice, Rome, Genoa, Switzerland, and Holland. In this way he became one of the precursors of the traveling type of scholar who checks up his theoretic results with the facts of everyday experience. But more than all his travels mentioned, a two years' stay in England influenced his whole political and social philosophy, because after the absolutistic*



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*and tyrannical experiences of his own country he lived here for the first time in an atmosphere of constitutional freedom and of a more liberal public opinion.*

*But also in France the social environment was changing and the ideas of Fénelon, of Abbé de St. Pierre, and especially the ingenious and satirical attacks of Voltaire against obscurantism and injustice, gave new horizons to the younger generation. Extremely gifted by nature and favored by his economic and social privileges, Montesquieu led a happy and undisturbed scholarly life, the results of which soon became generally acknowledged. With the publication of his Persian Letters in 1721 he became one of the most famous men of his period and the letters were sold, according to one of his contemporaries, "as bread." In this famous book in which, under the disguise of a traveling Persian nobleman, he described in a number of letters the absolutistic France of his day (not without a certain number of lubricious anecdotes which suited the taste of his countrymen), he was the first man in France who attacked, though in a mild literary form, the absolutistic constitution, depicting at the same time in biting satire, his whole social surroundings and demonstrating the vices of aristocracy, papacy, cloister life, celibacy, of confessional and heretical processes. He depicted the debauches of the nobility, the frenzies of absolutism, the void phraseology of professional learned circles. The book created not only an immediate sensation among the leading intellectuals (which opened before him the doors of the French Academy), but also a popular and widely spread interest in political criticism and speculation. His later works, the Considerations on the Causes of Greatness and Decline of the Romans (1734) and his chief work on the Spirit of Laws (1748), made his fame even more general, and he be-*

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*came a figure of European reputation. In his Considerations he shows himself as an admirer of the freedom of Rome and its military discipline, which was destroyed by the aggrandizement of the state, by political disharmony and corruption of manners. The experience of Roman history was one cornerstone of his system. On the other hand, the impressions of his English visit made him an enthusiastic supporter of the constitutional monarchy of which he became the chief theorist on the continent in his Spirit of Laws.*

*His acute, though always moderate and elegant criticism of the political and religious institutions of his day aroused the fear and indignation of his opponents, who were terrified by the stupendous popularity of his writings (the Spirit of Laws went through twenty-two editions in a year and a half). He was vehemently attacked by certain representatives of the clerical opinion and was called a Spinozist, a pagan, and an atheist. But Montesquieu never lost the serene tranquillity of the independent scholar. The only serious drawback of his fine, concentrated, and harmonious life was his very grave near-sightedness which grew in the last five years into a distressing sickness which impeded to a great extent his scientific investigation. Also the clerical attacks against him continued, and at his death-bed the Jesuits made a last attempt to induce him to withdraw his "frivolous" sentences. But the great man repudiated clerical intolerance and said these memorable words: "I am ready to do all for my religion, but nothing for the Jesuits." He was buried as the national hero of all progressively-minded France.*

*The scientific achievements of Montesquieu are very conspicuous both from a practical and from a theoretical point of view. In the practical politics of his day he became on the continent the first exponent of a limited monarchy, who formu-*

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lated for the first time, in an attractive and popular manner, the principles of representative government and a legislature divided, in the English way, into two houses. At the same time he was the first who developed further the theory of Locke concerning the division of powers, making the dual classification of his master a threefold one, and giving due allowance to the importance of the judiciary. In England, where they already had a Habeas Corpus act which was a check against arbitrary judicial power, this discrimination was not so essential but in France, in the country of the Lettres de Cachet, where lawless imprisonments were common, the theory of Montesquieu, though not fully formulated, had a tremendous influence on the political conception of his time. Also his categoric and passionate refutation of slavery, which in the colonies had again begun its fateful domination, cleared sensibly the political horizon.

The strictly scientific and theoretic achievements of the French philosopher were no less important. He may be regarded as one of the founders of modern sociology because he had a keen sense for social reality and he endeavored to demonstrate all those complicated factors which mold and remold the forms and the content of social coöperation. We find many acute and interesting analyses concerning the influence of climate, soil, and economic life on the changing social asset. At the same time he made far more sober endeavors than his predecessors of the school of Natural Law in order to reconstruct the real mentality of the primitive man. In this regard he made ample use of ethnographical data which, though in many cases they were not sufficiently reliable, showed, notwithstanding, a clear and sane appreciation of what we call today the ethnographic method of sociology. His insight into the science which became later modern

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*criminology was also very remarkable, and his distrust of penal law as a factor to correct manners and habits of society might well even today serve as an example to those legislators who have an absolute belief in the almightiness of penal education.*

*A further contribution of Montesquieu to modern social science is his theory of the distinct spirit of various nations and types of civilization. He tried to demonstrate that the various forms of government are also dominated by diverse principles: the republic is based on virtue, monarchy on laws, despotism on violence. This somewhat vague and objectionable theory is the expression of the thought that those complicated factors of historical traditions, the soil, the geographic surroundings, the climatic relations, and the forms of economic coöperation which led to the formation of so many distinct nations, have at the same time the tendency to build up a special soul, a distinct spirit in every human commonwealth; and a certain historical period remains unaltered as long as the central spirit of the nation continues the same. This theory, which had nothing mystical or romantic with Montesquieu, but which was rather a scientific hypothesis to explain the historical synthesis of carefully observed and inductively compared natural factors, became later, in the hands of his successors, the mystical Volksseele (the soul of a people) theory of the German historical school. It became likewise the basis of the critical method of Taine in France.*

*This acute sense of the French thinker with which he regarded the ever-changing reality of social coöperation gave him a new attitude concerning the methods and possibilities of future transformations. Though as a child of his epoch he is still under the sway of Nature as the supreme authority in determining human conduct, he is no more an ardent and un-*

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*critical affirmer of natural rights than are his predecessors; but he is rather inclined to accept a certain social expediency in the formation of institutions, a tendency which found its final and most complete elaboration in the philosophy of Bentham. Generally speaking, we could say that his whole system corresponds far more to the skeptic, empiricist and relativistic temper of the nineteenth century than to the ardent but somewhat dogmatic revolutionary belief of the eighteenth century.*

*But not only from a broader theoretical point of view, but also in the domain of particular problems, Montesquieu is a very fertile and stimulating writer who can give even in our day many suggestions to the students of political science. For instance, his investigation into the essence and importance of the federalist principle demonstrates how deeply he understood that field of research which we now call the system of imperialism; and he is far brighter than many of our modern pacifists when he proves with great acuteness that the only kind of political aggrandizement which is compatible with freedom would be an enlargement of the state by a process of federation.*

*Montesquieu was perhaps not a great and original philosopher in the sense of a great builder of ideological systems. And he is not regarded in French literature as a first class stylist in a nation so rich in the most brilliant literary geniuses. Perhaps Bluntschli is right in saying that he did not give more than an "ingenious work of mosaics." In spite of this, few men had such a tremendous influence on his contemporaries and successors as the French aristocrat. In the realm of practical activity such very heterogeneous personalities as Catherine II, Frederick the Great, Louis XVI, Malesherbes, Necker, Mirabeau, Washington, Robespierre, and Bonaparte*



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*may be regarded as statesmen very much under the influence of the French genius. Even the great French Revolution stood at its beginning under the sway of the doctrines of Montesquieu and it became only later the realizer of the principles of Rousseau.*

*In the field of scientific and theoretical thought his influence was even more conspicuous. Here we find Madame de Staël, Chateaubriand, Augustin Thierry, Guizot, De Tocqueville, Taine, and even some of the framers of the American Constitution under his influence, for his moderation, his good sense, keen, critical judgment, and his synthetic effort to approach social reality made a powerful appeal to the more sober, skeptical and timid spirit of the nineteenth century.*

*In this sense Montesquieu must be acknowledged as one of the foremost teachers in political thought, and his great contemporary, Voltaire, who was not without envy toward the great successes of his younger rival, expressed a sane and still valid judgment four years after the death of the founder of our modern "historicism." "I confess that Montesquieu often lacks in order, in spite of his divisions in books and chapters; that he sometimes gives an epigram for a definition and an antithesis for a new thought; that he is not always exact in his quotations; but he will remain always a happy and profound genius who thinks and makes think. His book should be the breviarium of those who are called to govern others. He will remain."*

## THE SPIRIT OF THE LAWS

**EVERY** nation its own laws. It is not as if laws were the free creation of the imagination. They are deeply rooted in the nature of the land and the people. The natural relations—climate, situation, extent of territory, character of the soil, economy and commerce, population and wealth, religion and customs and peculiar inclinations—determine the laws. They must be so suited to one nation that they would seldom be fit for another nation. They retain a connection with their origin, with the object of the lawgiver and the circumstances under which they were created. The numerous laws of a people are related to one another. The totality of all these relations is what we call the spirit of laws. Only he who can penetrate this spirit and see all these relations as a unified whole is called upon to give the people new laws.

The principle upon which laws are based depends primarily upon whether a government is republican, monarchic, or despotic. If all or a part of the people have the power of the state, it is a republic—a democratic or an aristocratic republic. A monarchy is ruled by a single person according to law; if he rules arbitrarily, it is a despotism.

The fundamental law of a democracy is that which regulates the right to vote and determines the number of citizens necessary to form valid resolutions in the popular assembly. The people themselves should do all that they can do well and leave the rest to officials whom they must elect, else they would not be their own officials.

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The people are well qualified to elect their own magistrates. They need only to consider public acts; they know that this or that man conducted many military campaigns and acquitted himself honorably—in fact, they could well elect a general. The people in the marketplace are much better informed concerning the virtue of a judge than is the king in a palace. The people recognize merit; and while they cannot take the administration of public affairs upon themselves, they can hold administrative offices to accountability. To seize upon the proper occasion for dealing with the affairs of the state is not within the competence of the people. They must be led by a council or a senate whose members are elected by themselves or by elected agents to whom the people have intrusted the right of appointment. The selection of magistrates by lot is suited to a democracy, for by this method no one feels slighted and everyone has hope; but appointment by lot is not suited to every office and needs some modification. According to Solon's law, military commanders were to be elected, but judges and senators were to be chosen by lot; but the selection by lot was confined only to those who were contending for office; moreover, an indictment could be lodged against the one chosen, by any citizen, on the ground that the incumbent was unworthy of office; after the expiration of his term of office, judgment was again passed upon him as to his conduct in office. This prevented the incompetent from seeking office.

The people should vote publicly. This is to be regarded as a fundamental principle of a good democracy. Prominent men may thus enlighten the people, who will be guided and restrained by their authority. Secret voting

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is the undoing of democracy. In the senate of a democracy and in the council of the nobles of an aristocracy the voting is said to be secret for the purpose of preventing divisions into factions, but among the people parties are natural and not dangerous. It is natural for the masses to be swayed by passions. Where they have no part in government, they are readily moved for or against an actor. It is a bad sign if the people are not divided into parties. This is the case if they are corrupted through bribery or become indifferent to public affairs and if each is interested only in the price of his vote.

A fundamental principle of democracy is that the people themselves should determine the laws. Nevertheless, it is often necessary that the senate have the power to issue decrees. It is also advisable first to test a law. It was a wise arrangement in the Athenian and Roman republics which provided that the decisions of the senate should be valid for but one year, permanent validity or legal power being conferred by the will of the people alone.

The greatest difficulty in a democracy is dividing the people into classes in accordance with justice. Upon it depends the success and the permanence of democracies. Great lawgivers have given themselves to this task in different ways. Servius Tullius gave the rich class more votes than the great mass of poor, which is in accordance with the spirit of aristocracy. Solon gave all classes equality in suffrage, but not equality as to eligibility; judges could be elected from all classes, but other magistrates only from among the propertied classes.

In an aristocracy a number of citizens, the nobles, hold the power of government, the legislative as well as the judicial; the rest of the people are merely subjects.

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There would be no point in filling offices in an aristocracy by lot, as it would only result in disadvantages. The people do not envy individuals because they hold office; they hate the nobles as a class. It redounds to the credit of an aristocracy if it gives to the people some share, some influence, in the administration of the state. The nearer an aristocracy approaches monarchy, the worse it becomes; the more it approaches democracy, the more perfect does it become. Where that part of the people who have no share in government is so inferior and poor that the ruling class has no interest in oppressing it, aristocracy is good. It is worst of all where the subjects are also economically the slaves of the ruling class—the peasants the serfs of the nobles.

If the nobles are numerous it is necessary to have a senate to conduct business and prepare the deliberations for the entire body. It is dangerous to give the senate the power of renewing itself. A large degree of official power must always be counterpoised by a short tenure of office. The grant of unusual power to a single individual in a republic is, under certain circumstances, much more dangerous to a state than is the power of a king in a monarchy, since, in the former, laws have not anticipated such a power and hence no limitations are placed upon it.

In a monarchy a single person rules, but according to law, not arbitrarily. This is brought about by intermediaries, subordinate authorities, who cannot circumvent the will of the king. The privileged estates, such as the nobles, are an essential part of a monarchy, a bulwark and barrier against rulers; without them monarchy would be transformed into a democracy or a despotism. But the mere existence of a noble class will effect nothing; it may

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ignorantly and indolently give itself over to sensual pleasure. A political body must be created to guard the laws.

In a despotism there are no laws and no political bodies. In despotically ruled countries religion, for this reason, plays a prominent part; customs and usages become honored instead of laws, and they secure a certain permanence of order. It is in accordance with the nature of despotism that the despot also exercises his power through a single all-powerful minister or vizier. The ruler who is continually told that he is everything and that the rest are nothing naturally becomes lazy, ignorant, and licentious. He withdraws himself within his palace and leaves the affairs of state to others. If he were to transfer his affairs to many, it would lead to contentions and it would become necessary for him to interfere. It is simpler to acknowledge one man as his principal slave and turn the government over to him.

Each one of the three constitutions has a different principle according to which the state should be governed; each has its own mainspring which impels the machinery of state; each employs a different spiritual power as a motive to mankind: in a republic it is virtue; in a monarchy, honor; and in despotism, fear. This is not to say that there is no virtue in a monarchy and no honor in a republic; the question is which is the driving and sustaining power of the constitution without which it could not exist. Only the virtue of the citizens can preserve a democracy—that is, their political virtue, their love for country and for equality. The citizens are rulers and subjects; they make the laws and execute them, they impose burdens upon themselves; each must feel that he should do what he

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demands of others. Democracy comes to an end the moment its laws are not obeyed. In a monarchy, if the king does not permit the laws to be executed, this defect may again be made good. If the people in a democracy disregard the laws that they themselves have created, it is an indication that they are corrupt. The thirst for power and possession has driven out love for the common welfare. The wealth of the citizens constituted the well-being of the state, but now the common good becomes the booty of the individual. They are no longer free men, but unruly slaves who have broken loose. In truth, not of riches, finance, trade, or industry, should the politicians of a democracy speak; they should concern themselves with virtue. Aristocracy likewise requires virtue. The common people will become subdued through the force of laws; the noble must govern himself. That the members of a ruling class will be moderate toward the people, maintain equality among themselves, enforce the laws against persons of rank—that is the virtue of an aristocracy. A monarchy may succeed with little virtue. How much virtue does one find attached to courts? But it is not to be expected that the people will be virtuous if the rulers are not. The mainspring of monarchy is honor: the confidence or conceit of the individual and of the ranking classes concerning their own special importance—a confidence which spurs men to accomplish things quite as much as virtue itself; and this confidence, combined with the pressure of laws, serves the government its purpose. These prerogatives of the higher classes, which belong to the nature of a monarchic constitution, form the incentive through which ambition is stimulated and operates to bring men together to work for a common welfare, though

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each individual may think only of himself. So there are, in monarchies, but few good men, but the majority are good citizens. Is it not remarkable to move men to action through mere ostentation? In a republic ambition is destructive; in a monarchy it operates for good and is not dangerous, for there are forces which in due time see to it that its wings are clipped. Despotism requires neither virtue nor honor, but fear which suppresses both courage and ambition.

Laws should conform to the principle of the constitution. The first impressions we receive are the laws of education. And these must conform to the principle of the constitution. Despotism keeps men in ignorance, for one must be ignorant to obey unconditionally; yes, even to demand unconditional obedience. Ignorance is the most fertile soil for fear which waxes great through threats and penalties. Monarchy teaches, in school as in life, that men seek after honor. That is to say, the spiritual part of man is less important than the impression that his bearing makes upon others. Not so much the good as the agreeable, not the lofty thought, but the unusual act. Truly man distinguishes himself much more on account of audacity than on account of truth. One must not be good but polite—as if he belonged to the court. The greatest honor is to serve the king, especially in war, where one risks his life for him. Honor has its own peculiar laws—*e.g.*, that one should make less out of life than out of rank and possessions, that the commands and prohibitions of honor, if they are not sanctioned by laws, are, because of that fact, all the more important; that is what distinguishes it from the laws governing the common man. It is not difficult to inculcate in the youth this conception



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of honor; it is rooted in the emotions. Much more difficult is the inculcation of virtue upon which the republic is founded. It consists in self-mastery, which enables one to sacrifice his own advantage to the common welfare, and that is always difficult. In a democracy it all depends upon the firm establishment of love for democracy in the minds of the children. The surest means is to have the fathers themselves animated by it. How seriously the lawgivers of a republic must take the question of virtue is shown in the legislation of Lycurgus and the *Republic* of Plato. There the oldest elements of law and custom, apparently indispensable to the amenities of life, were thrown overboard to create a new order suitable to educate and maintain the citizens in the ways of virtue. That was the purpose of the Spartan discipline and of the Platonic community of goods. They are intended for small states in which the people are to be educated as one family and where each member is always in close relation with every other.

Love of democracy is love of equality and moderation. Love of equality holds ambition in check and guides it to a greater service in the cause of the fatherland, a service where each attempts to excel the other in the cause of a common welfare. Moderation limits the desire for possession to that which is necessary for the family and the fatherland. The wealth of a citizen is power which destroys equality. Equality and moderation must be secured by law. Love for them will be best promoted through the influence of the existing equality and the moderation actually exercised, because democracy is a state in which they are regulated by laws. Where wealth and poverty are ever in view, the sense of equality and

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moderation disappears. The land may be equally divided at the founding of a new state or when the old constitution is so corrupt that public sentiment has become receptive to this radical measure. It is necessary at the same time, however, to pass laws to maintain equality: transfer of property, succession, dowry, etc., must be carefully regulated with this in view. If a gap is left open at any point, inequality will set in. Exact equality is scarcely realizable. In so far as a burden is imposed here, an alleviation granted there, differences are equalized; but that the parts are equal does not meet the purpose; they must also be small. "God forbid"—said a Roman general to his soldiers who demanded a larger share of the conquered land—"that a citizen should regard a parcel of land too small when it is large enough to support one man." Equality and moderation cannot exist separately.

In a republic an authority is necessary to watch over the morals of the people and of the magistrates. There should also be a body open to men of honorable age, virtue, and service, a senate which should stand, as it were, before the people as a living model. Obedience to the laws and authority must become a second nature to the citizens of a democracy. Regard for parents and for the old is the best school of morals and of law. Unchastity of women, luxury, unbridled striving for riches, are closely related to the fall of democracy. The Athenians had special officials who guarded the moral purity of women.

Moderation is the virtue of an aristocracy. Pomp and splendor support the power of a monarch; modesty and simplicity, the power of an aristocracy. The more the noble places himself in proximity to the people, the more readily will they forget their political pupilage. The two

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principal sources of unrest in aristocratic states are: great inequality between the rulers and the ruled, and inequality between the rulers themselves. Out of them spring hate and jealousy. The nobles should not claim privileges which discredit the people, such as prohibiting marriage with plebeians. They should not claim exemption from taxation nor, by fraudulent means, free themselves from public burdens; they should not appropriate for themselves the income of the state upon the pretext of a salary for offices which they administer. The Roman noble paid taxes, accepted no salary, and divided the income of the state among the people. Nobles should not be tax collectors, for the people would thus be subject to their absolute will; they would have no authority to fear; their confederates in rank would prefer, instead of resenting the abuse, to enjoy it with them, until finally theft would be regarded as a right transmissible to their successors. By such methods the noble will become a despot. The ruling class must be just to the people. There must be officials before whom the nobles tremble, or the people must have their tribunes. Cicero said the establishment of the tribunate was the good fortune of the republic. The power of the people who have no leaders is terrible. The people, in their impetuosity, do not know the danger into which they will fall; they always carry things as far as they dare go. A leader, on the other hand, knows that the entire responsibility will devolve upon him and he will take thought. Discord among the nobles should be rapidly settled, so that family feuds and civil war do not arise out of personal quarrels. The vain distinctions of the noble classes, that one is older and therefore nobler than the other, should not be legally tolerated. Impoverishment as well as excessive

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riches will destroy an aristocracy. Indebtedness should be prevented by law. Primogeniture and entail are inadmissible in an aristocracy. These are institutions of monarchy for the purpose of maintaining a high nobility. In an aristocracy the property of patricians should be kept, so far as possible, upon an equal footing through the division of inheritances. Monarchy may also grant noble persons and their goods privileges and immunities; in an aristocratic republic such things are untenable; there the noble has political privileges only in his collective capacity.

Mankind loves freedom and hates force; and yet there are so many despotic governments! It is explained by the fact that it is really not easy to establish a moderate government. To so unite, order, and moderate the various powers that, balancing one another, they will work together is a masterpiece of lawmaking which accident seldom effects and wisdom seldom accomplishes. To erect a despotic government one needs only passions—the whole world is material for it. One hears the most diverse opinions as to what political liberty consists of; each regards as a free constitution that one which corresponds to his own customs and inclinations. Liberty consists in a sense of security that the rulers will not be able to abuse their power, in the calm disposition of the citizens which arises out of this feeling. But experience has ever demonstrated that he who has power in his hands is inclined to abuse it—he will go to the limit. That power may not be abused, things must be so ordered that another power will serve as a check. The English constitution is organized according to this principle.

A state must (1) pass laws, (2) maintain the peace among the citizens by means of courts and penalties, (3)

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exercise the power of the state for the protection of the community. Legislative, judicial, and executive power should not be united in the hands of a single person or a single body, for it will destroy liberty. If the lawgiver controls the executive power, his decisions will be treated according to pleasure and will be arbitrarily executed. If the judge is himself the lawgiver, the life and liberty of the citizens are at his disposal. He will at once become an oppressor if, together with the judicial, he also possesses executive power. Those who have striven after despotic power have always begun by endeavoring to unite the various offices under their personal control. Even if the three powers are distributed to different magistrates who belong to the same class, as in an hereditary aristocracy, liberty will be little better secured than in a despotism.

In a free state legislation belongs to the people as a whole. In large states it is not possible, however, to have all the people assemble to legislate, and even in small states the mass of people are not adapted to settle public affairs; and for that reason the people must exercise legislative power through representatives elected by them. Every citizen should have the right to express himself in the election of a representative, unless his mind is so undeveloped that he should be denied the right to express his own will. The share that the people should have in government is the election of their representatives. It is the one function for which they are adapted. It is given to few, it is true, to judge abilities carefully, but to recognize those who excel the majority in intelligence is within the competence of the people in general. As one knows the needs of the city in which he lives better than the needs of any other city, and is better qualified to judge the capa-

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bilities of his neighbors than the capabilities of foreigners, it follows that the people as a whole should not elect their deputies, but each city or district should elect its own representative. Nor is it necessary that the deputies who have received general instructions at an election should receive special instructions upon every issue that may arise. It would cause endless delay in forming conclusions. Popular representatives are elected for a limited period, so that the people, if they are dissatisfied with current legislation, may have hope for the future. If deputies were elected for life, the legislature, once corrupted, could not be redeemed; the people could not expect anything good from the laws and they would fall into disorder or sink into indolence.

The advantages to a class distinguished by descent, riches, or honors—and every state has such—are odious to the people. Their representatives will of necessity attack them. Now if the nobles mingle with the people and have only the same right to vote that others have, decisions will generally be directed against the interests of the nobles, who then become the enemies of the constitution. If it is desired to retain the advantages of the nobles, but to avert their enmity toward the constitution, they must be given a special part in legislation, so arranged that in the formulation of laws they shall form a separate body of representatives in which the concurrence of both branches shall be necessary to pass a law. Since neither can come to a decision alone, both must be moderate.

The executive power should be in the hands of a monarch. It must act quickly and it can do so only if a single person is in control. The legislative assembly is not suited for this purpose. If the executive power were intrusted to

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the legislative assembly or to one of its powerful boards, the two powers would be united and liberty would be destroyed. That the legislature may not encroach upon the province of the executive power, the monarch should have the right to veto such attempts on the part of the legislature. On the other hand, the legislative assembly cannot be provided with a similar authority in order to restrict through the veto the activity of the executive power. But it is its duty and obligation to investigate and find out whether and how the laws have been executed. In order, however, not to subordinate the monarch to the legislative assembly, it should not call the monarch, but the ministers, directly to account.

Liberty will be protected against the executive through the fact that his means to power—money and the army—must be annually approved by the legislative assembly. If the holder of the executive power can at will levy taxes and enlist soldiers, it will be the death of liberty, for he is at the same time lawgiver in the most important affairs, and he will become an oppressor. The army which is intrusted to the command of the monarch must be mustered up from the people themselves, so that they will be animated by the same spirit. The citizens should themselves be taken into service for a year. If there is a standing army, there should be no special camp, no barracks; the soldiers should live with the citizens and the legislature should have the right to disband the army. But the army must be under the command of the monarch, not the legislative assembly; it is natural that soldiers, whose calling does not consist of deliberations, but of courageous action, should have no regard for deliberative assemblies whose members they regard as timorous and

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unworthy of giving commands. An army would disregard the commands of a legislative assembly and obey those of their own officers. If an army is subordinated to a legislative assembly, there will arise a military government; or it will be necessary to take measures which limit the efficiency of the army and with it the government, and thus weaken the state.

The question now arises: if the two chambers of the legislature, if the lawmaking and the executive powers, balance each other, will not the government simply be throttled? Answer: the course of life will permit no government to stand still. One must act. And so it will be necessary for every department of the government to become moderate in order to agree.

The judicial power is stupendous. It should not be bound to permanent courts or to an estate. Persons taken from the body of the people and of the same rank as the accused should exercise this power temporarily and in a manner designated by law; the parties should elect the judges for every case or at least have the right of rejecting so many that those remaining would in effect be elected by them. In this manner the danger to liberty from this part of the power of the state would be taken away; it would be, as it were, dissolved. Not the courts, but the judgment would be permanent; it would inviolably follow the law; the judge would merely be the mouthpiece who in the given case would state the law concerned. If the opinion held by the judge at the time being determined the judgment, one would be living in a society without an exact knowledge of the obligations one undertakes, and there would be no security and no liberty.

Liberty depends, above all, upon the fundamental prin-



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ciples of the constitution—upon the separation of the three departments; and beyond that, especially upon the penal laws. Where innocence is not secure, there is no liberty. There is scarcely any knowledge that affects mankind more vitally than a knowledge of the proper rules of penal justice.

Every penalty should be so fitted to the peculiar nature of the crime that it should set in as a natural consequence of the act. Then all arbitrariness ceases; not man does violence to man, but the act revenges itself, it draws its consequences upon itself. It is natural that he who commits a breach of morals will be punished with the disgrace and loss of advantage which society attaches to moral rectitude. It is natural that he who disturbs the peace and security of others should be imprisoned or exiled. Crimes against property are naturally avenged with the property of the criminal; and since this penalty cannot be applied to those without property, there is substituted the penalty against the person. Penalties must also harmonize and stand in the right relation with one another. If robbery and murder were placed under the same penalty, the robber would commit murder; death would not deter. A severe penalty is in keeping with a despotic government whose principle is terror. In such a government nearly all crimes are punished with death, for disobedience to the ruler is really the crime. In a free state the love of country and the sense of shame should prevent crimes from being committed. To be convicted of an evil deed should be regarded as the greatest penalty. The wise lawgiver will much rather prevent crimes than punish them. He will prevent the misfortune of being compelled to be cruel. He will establish a general moral-

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ity so that he will only need to show the people the good; instead of a command, he will give counsel. He will be mild. Anything may serve him as a penalty, for everything which the law calls penalty will act as a penalty. Experience teaches that in states in which the penalties are mild the citizens take them to heart quite as much as they do where the penalties are harsh. Men should not be led over the roughest roads. Means which nature has given us to guide mankind should be used sparingly. Nature gave man shame as the scourge: the greatest part of the penalty is the disgrace of being punished. Whenever punishment does not result in disgrace, it is the effect of tyranny which persecutes both good and bad alike with the same penalty. Where men can be controlled only by cruel penalties, the fault lies in the cruelty of the government which places heavy penalties upon minor offenses. A powerful government wishes to remedy a wrong speedily and imposes a cruel penalty in order to check it immediately. It thereby merely wears out the mainspring of the government. The mind of the criminal will also become accustomed to the severe penalty, and he will soon begin his misdeeds again; on the other hand, the effectiveness of the milder penalty will be reduced, so that in a short time the government will find itself generally compelled to apply the harsh penalty. The lawgiver who wishes to do away with an evil too often considers only immediate remedies and does not think of the ultimate consequences. The evil ceases, but the harshness of the lawgiver remains, and the minds which have become accustomed to the cruelties are ruined. If the laws themselves destroy the people, how can they be redeemed? Laws do not lose their force because the penalty is mild, but because crimi-

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nals go unpunished. Care must be taken that the laws are executed, that the existing laws are given effect, not new and harsh ones enacted. The cruelty of laws prevents their execution. If the penalty is excessive, no plaintiff and no judge can be found. Even the stubborn, wayward, perverse character of the people does not excuse a cruel penalty; refractory children should be dealt with gently. If, however, the spirit of a people is ruined through harsh penalties, moderation should be gradually introduced.

Particularly through the treatment of political crimes, may a government degenerate into despotism. If the facts in the case of these crimes are not definitely stated, if acts are stamped as high treason, which in their nature are not such, if the criticism of a minister is regarded as an insult to a prince, and a thoughtless speech as malicious—then arbitrary conduct has an open road; there is then an end to liberty. Capital crimes should not be made out of words. The significance of a word depends upon the tone in which it is uttered and the connection in which it is spoken. A word should be regarded merely as the symbol of an act which it precedes, accompanies, or follows as a consequence. Satirical writings are not usually forbidden in democracies. Since they are, as a rule, directed against powerful personages they pander to the wickedness of those who govern. In a monarchy they are forbidden, but they are dealt with by the police rather than by penal courts; general villainy may delight in them, discontent find comfort, envy satisfy itself, those who suffer, strengthen their patience and even sometimes laugh over their sufferings. Aristocracy interdicts satirical works most rigidly. The officials here are petty sovereigns, not great enough to scorn abuse.

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A republic must guard itself in punishing political criminals lest it transgress the bounds of reason. If it succeeds in overcoming the party which wishes to overthrow the republic, vengeance and penalties, as well as the rewards, should speedily terminate. Better to forgive much than to suffer much; better to be reluctant to exile and to confiscate than to be hasty. In a war for revenge a great deal of power must be placed in the hands of a few citizens, but the republic encounters the danger that the avenger, under the pretext of protecting the republic, will establish his own tyranny. The history of the Greek republics offers sufficient evidence of this fact. There should be, as soon as possible, a return to the usual course of government in which the laws shelter all and attack none.

Sometimes the government must, when trouble sets in, use its whole power; then again it will be sufficient to apply only a part of its strength. To be able to judge this matter correctly requires the art of a statesman. Respect for the ruler is a power by which the state may be quietly guided. Govern not with penalties, but with the example of morality. Do not threaten, but inspire; and govern with gentleness.

The monarch should not wish to dispose of all things personally. Only a control, extending itself to general affairs, befits him. A disregard of this rule has caused many a monarch to fall. Nor should he desire to exercise his power to reverse the natural order of affairs instead of following it. He should not withdraw from one his natural function and arbitrarily grant it to another in an uncalled-for manner. That would be to govern against reason. He should not sin against honor, the principle of monarchy, by heaping honors upon the dishonorable. He

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should not rob the nobility of the veneration of the people by debasing it as a tool to satisfy his whim. He thereby weakens his own support, for the noble always supports the king. The noble counts it an honor to serve the king and considers it a disgrace to be compelled to share power with the people. In the respect and love of the people should the monarch find his security. He lessens his security in the same degree that he increases his power.

A democracy will also go to ruin if the people attempt to do everything themselves. They will become jealous of the power which they themselves bestow upon the magistrates whom they have placed in office. They will carry the principle of equality to the extreme: no regard for the senate, no reverence for the judge, no obedience toward officials, no respect for parents; moral order comes to an end, licentiousness becomes general; virtue, the sustaining power of democracy, disappears. The people, having become self-conscious through success, will be deceived by flatterers who continually talk to them about their greatness in order to conceal their own ambition; they will spur the greed of the people in order to pamper their own desire. Thus petty tyrants will arise, each afflicted with every vice, until finally one will elevate himself over all. Thus equality, carried to the extreme, will ultimately lead to the despotism of a single individual.

Aristocracy degenerates if the spirit of moderation disappears, and the rule of the noble becomes arbitrary. Then the republic, limited to the governing class, is, in relation to the people, a despotic state with many despots. The state becomes divided into two irreconcilable groups. Hereditary aristocracy inclines to this end; it does not feel the need of moderation. If the number of nobles is small,

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their power becomes so much the greater, but at the expense of their security. If the number is large, the government is less powerful, its security greater, but the carelessness, neglect, and indolence of the governing class increase. An aristocracy can only preserve its strength if it gives far more thought to the dangers and difficulties of its government than to pleasures. This may be brought about by external enemies.

In a small state monarchy can maintain itself with difficulty. The prince will, in order to satisfy his demands, become oppressor, and the people will banish him. Monarchy is suited to medium-sized states, not large empires. It is true that it lies in the nature of monarchy to strive for an increase of power, but the wise monarch will limit himself, for he will see the disadvantages of size: expanding beyond measure will lead to the fall of the empire. Governors of the separate provinces are naturally conscious of their independent power. The king is far removed and sees little of the true situation; the arm of the law moves slowly; this gives the governors a sense of security, and they will make themselves independent. Only a despotic government with quick decisions and terrible measures can keep them in check. Therefore, a monarchy, with its urge to expand, inclines to despotism. A large empire must either be governed despotically or as a federal state of small republics.

A republican constitution is suited to small states. In a large state great power and great wealth concentrate in the hands of a few, and this does not comport with the spirit of a republic. Selfishness strengthens and sets itself against the common welfare. In a small state that which is necessary or injurious to the community is more easily

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recognized and stands nearer to each individual. In large states abuses are practiced and protected by the many. If the republic is small, it will be absorbed from without; if it is large, it will go to ruin from within. Is it, in fact, necessary that people live under a monarchical government? No. The federal republic is the constitution which combines the inner strength of the republic with the external power of monarchy. It is able to withstand foreign power, to maintain its territory, to enlarge itself with the accession of new confederates without degenerating within. One who seeks to amass power here, illegally, will find it difficult to get the assistance of all the confederated states; if he succeeds in acquiring the power in one state, the others will suppress him. If disturbances arise in one of the confederated states, the others can silence them. If abuses creep in at certain points, the sound parts will remedy them. A federal state should be made up of small republics. Monarchies are not adapted for alliances. The spirit of monarchy is war and despotism; the spirit of the republic is peace and moderation.

## CHAPTER XI

### ROUSSEAU (1712-1778)

#### INTRODUCTION

*JEAN JACQUES ROUSSEAU*, the spiritual father of the French Revolution, was the deepest expression and the symbolic culmination of a period of social disintegration and moral discord. His literary, scientific, and philosophical activity was one of the chief ideological forces which destroyed the French absolute monarchy and the remnants of feudalism which, as a useless court nobility and a dangerous social parasite, extracted the creative forces of the French nation. As one writer of his life correctly says: "Rousseau is the people; he saw the life and society from the side of the disinherited, the feeble, the vagabond, the starving. He saw above the political inequality the social inequality, and he protested not so much against the nobility as against wealth. Equality is to him as precious as liberty, and the great proprietor who makes men poor is, for him, as detestable as the despot who makes men slaves. Social injustice and political injustice sustain themselves mutually."

Rousseau's whole career was colored by the suffering of the small bourgeoisie from which he himself had sprung. He was born in the austere Calvinistic republic of Geneva, the son of a poor watchmaker. His birth caused the death of his mother, and his father was a light-minded quarreler and vagabond who



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*soon abandoned his child. This paternal moral inheritance accompanied Rousseau during his whole life, which was a continuous vagrancy without rest and without sufficient intellectual and moral concentration. He was a confused self-taught man who acquired only slowly and unharmoniously his unity of intellectual vision. From his earliest childhood the necessity of earning a livelihood drove him from one occupation to another; but he was, one might say, biologically unfit for any profession because anything that required continuous activity weighed upon him almost as a disease. He was a clerk to an attorney who regarded him as a hopeless fellow, then a pupil of an engraver, later a servant, a lackey, a teacher of music, a private tutor, a poet, a composer, a playwright, a music critic, a novelist, the secretary of the French ambassador at Venice, a copyist of music texts, and, in the period of his fame, the much sought guest of many aristocratic houses. He was very often on the verge of famine and thoughts of suicide were not alien to him.*

*This unstable career, without education, without direction, without the loving care of a parental home, reflected itself in his moral nature, which was an astonishing mixture of the highest qualities of human sympathy, pity, and magnanimity, and of traits of moral inferiority very often touching the pathological. He spent the earlier part of his life in sexual promiscuity. He committed a theft in a house where he was teacher and accused a poor servant girl who was innocent of the crime. He became the lover of an elderly lady and as a result was compelled to undergo many humiliations. He was converted by his sweetheart to Catholicism, but later he returned to Protestantism. He married a hotel servant who, by her suspicious, tactless, and irreconcilable character envenomed his whole life. He put his five illegitimate chil-*



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*dren into an orphanage. He was very often ungrateful toward his best friends and almost all of his relatives were disturbed by his distrustful, unsociable, suspicious nature.*

*Certainly, unless we consider his nervous pathology we cannot understand many aspects of his contradictory character. There was something infantile about him during his whole life and women treated him always as a child. His nervous, irritable, anarchical temperament grew later into a veritable mania of persecution. The antagonism between his romantic love of a simple, unartificial and unsophisticated life and his connection with the frivolous and luxurious life of the upper ten thousand, accentuated even more the cleavage in his moral personality. But in his riper manhood the noble and idealistic features of his character gained more and more preponderance. He realized perfectly the moral danger of his situation. He himself said that his life vacillated between Achilles and Thersites, between a hero and a good-for-nothing; but in spite of his various inconsistencies he always remained true to the higher inspirations of his soul. When a man of forty he underwent a serious moral crisis which threw him into despair. He sought poverty and solitude; he found a great Platonic love; the remorse of conscience persecuted him and he tried to find his abandoned children.*

*His social and moral disharmony was further envenomed by his political persecutions after his works on social and political questions had made him famous. He fled from France to Switzerland and again from Switzerland to France. His native city, the liberty and simplicity of which he admired and extolled so much, burned his books. Bern expelled him from its walls and the ignorant inhabitants of a small village set against him and tried to stone the calumniated reformer. Another cause of his despair which intensified his persecution*

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*complex was the enmity of his great contemporary and rival, Voltaire, who really contributed much to make his life disagreeable. When in 1766 he accepted an invitation of Hume and went to England to enjoy the hospitality of the official and aristocratic circles of that country, it was not only the tactlessness of his wife which compelled him to abandon the islands which gave him the promise of a new and undisturbed home, but also Voltaire, who in an anonymous pamphlet compiled many citations of Rousseau against Englishmen. In the last period of his life his taste for calmness and solitude became even more pronounced. Music and botany were his chief consolation amid the stormy sea of his passions. He died when a guest in the château of the Marquis de Girardin and the prevailing opinion of the time was convinced that he had committed suicide. But when his body was transported to the Pantheon in Paris, a medical examination demonstrated that this assumption was unfounded, though there can be no doubt that so much worry and despair contributed to hasten his end.*

*The turning point of his career was in 1750, when he gained the award of the Academy of Dijon in answering the question whether the arts and sciences contributed to the corruption or to the ennobling of manners. Rousseau answered the question unfavorably to the arts; but there is a curious story about the origin of his conviction, which shows how irritable, impressionable, and eager for popular sensation the great prophet was. According to Marmontel, Rousseau talked about his plan to Diderot, the great encyclopedist, and when the latter heard that his colleague intended to give an answer in favor of the arts and sciences, he admonished him not to adopt the trite plan of mediocre writers, but rather to follow the more daring way of accusing intellectual culture of the*

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*corruption of society. Rousseau could not resist this suggestion. He won the prize; his name became famous and he turned from poetry and music to the more arduous task of political and social philosophy. In 1754 he wrote his famous discourse on the Origin and Basis of Inequality among Men, unfavorably received by the same Academy. Three years later he published an important article in the Encyclopedia on Political Economy and in 1762 his famous Social Contract, which was partially prepared in his brilliant essay on education, Émile.*

*He had originally intended to write a whole system of social philosophy, but manifestly such a systematic task was irreconcilable with his character and temperament. His social and political thought was at first influenced by Montesquieu, Voltaire, and the encyclopedists, especially by Holbach, D'Alambert, and Diderot, but soon he abandoned the rather constitutional and materialistic orientation of this group, and the problem of the moral aspects of social inequality and misery became the most ardent interest of his life. He was surely nearer to Pufendorf and to Locke than to his own French contemporaries, but the state of nature, with its simple, regular, solitary life, with its proud, independent and happy savages—a half-historical and half-romantic and sentimental vision—became, one may say, the central myth of his speculation. Many of his contemporaries, and later antagonists, ridiculed him on this account and distorted his thought, pretending that Rousseau wished to demolish European culture and lead humanity back to its original barbarism. In this sense, Voltaire wrote satirically to him concerning his natural state: "If you are in any event determined to graze, come and do it on my property." But the real thought of Rousseau was not such an anachronistic idea, but rather the reintroduc-*

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*tion into the modern state of that moral purity and simplicity which he believed to have been characteristic of the primitive life.*

*His whole social and political philosophy is centered in the task of giving a solid constitutional basis to popular sovereignty which alone could lead society toward the common weal. His famous theory of the general will, opposed to the will of all, is a very profound and suggestive, though not sufficiently elaborated, attempt to find out the fundamental principle of all free and reasonable human coöperation among potentially equal men. In our own day, when the general interest of society is ridiculed as a kind of class hypocrisy, the sharp distinction of Rousseau between the general will and the majority will and his categorical assertion that sovereignty cannot be transmitted, not even in the form of a representative legislative body, and that the people must directly pronounce its will in all important questions, has a great interest for the present generation from both a theoretical and a practical point of view. Our present political atmosphere is saturated with plans for a functional and economic representation which without a careful revision of the general public interest cannot be solved in a satisfactory way. Similarly, all endeavors to extend direct legislation in the form of referendum, veto, or popular initiative and those which aim toward a decentralization of the state, toward new forms of economic co-operation, cultural self-determination, and administrative regionalism, will have an important theoretical background in the social philosophy of the citizen of Geneva.*

*On the other hand, the political analysis of Jean Jacques Rousseau is in many respects unsatisfactory not only from the point of view of our more complicated capitalistic society, but also from the point of view of his own epoch. Though he*

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*realized perfectly the dangers of class rule and party politics, though he clearly understood the very essence of class struggle and exploitation, and though he clearly perceived that the tendency toward the mass democracies of the cities must destroy the real essence of the general will, his system does not give us sufficient information and direction as to how these dangers can be avoided. At the same time he was scarcely aware of the fact that the unrestricted power of the general will which he intended even to further and corroborate by a very rigid kind of Civic Religion, sustained if necessary by capital punishment, would mean a new absolutism scarcely less formidable than that of the former kingdoms and oligarchies: the absolutism of the demos. Under these conditions his conception of the general will, the central point of his system, remains somewhat obscure, and it is no wonder that he regards a good constitution rather as an ideal than as a political reality, almost as a mystical act of divine enlightenment. It was in this connection that he made his famous prophecy relative to the Corsicans, that "Some day this little island will astonish Europe." Napoleon Bonaparte, indeed, was born less than ten years after this singular prediction was announced, but one may wonder whether the great admirer of the antique city-states and of the Swiss city-republics would have acknowledged the mission of the Corsican superman as the realization of his philosophy.*

*The contribution of Rousseau to political and social theory is far greater than his very important analyses and suggestions concerning the constitutional side of the problem. One of the chief merits of Rousseau consists in the fact that he realized more keenly than any of his predecessors the importance of the economic and social problem underlying the constitutional—what he called inequality and servitude. The*



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*question has very often been hotly debated whether the man who so fiercely and vehemently denounced the corrupting influences of wealth and the anti-democratic tendencies of a purely hedonistic civilization should be regarded as a socialist. Certainly if we regard socialism as a system of collective property and communistic production, the great Genevese would scarcely qualify, for he is wholly opposed to such a system. But if we accept as the criterion of socialism the endeavor toward social justice, toward the elimination of all kinds of corruption and unrequited remuneration, then the whole philosophy of Rousseau may be considered as the emanation of a genuine socialism. In this sense he may also be acknowledged as one of the predecessors of Henry George and land reform, for he regarded land as the common property of mankind and therefore would restrict private property in land to an area just sufficient for personal cultivation by its owner.*

*The importance of Rousseau is not less great in the realm of private and social ethics. He emphasized with an uncommon strength, vigor, and sincere pathos—the force of which still impresses the reader—a series of elementary moral relations without the realization of which no higher kind of social coöperation will ever be achieved. Man is free, all men are equal, no man is justified in employing others for the realization of his happiness without himself serving equally with others, the state is of all and for all; these and similar truths are emphasized by the great moralist not in a trite or preaching manner, but are illuminated by the intuitive insight of the genius. With him the whole social and political philosophy of France took a radical turn. The jural or administrative reforms of Voltaire and the encyclopedists no longer sufficed for Rousseau. His conviction was rather that*

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*only an entire and radical change in human nature could lead to a veritable remolding of the old state. In this respect he was very near to the Bolsheviks of our own day, for he would have employed a compulsory system of education for the realization of this supreme task. From this point of view his interest in education is distinctly social and his paradoxical but highly suggestive Émile was only an introduction to his social philosophy.*

*Outside of the social and political field the genius of Rousseau also achieved very important results. In his famous Confessions he became the first conscious psycho-analyst, with all the merits and defects of this school, through the dissection of the morbid inclinations of the human soul and through a tendency toward cynical manifestations. At the same time all the elements of the later novel, of the psychological and analytical kind, can be found in this memoir, and in his work, the Nouvelle Héloïse, which created a tremendous sensation among his contemporaries, especially among women who regarded him as their idol.*

*In general it may be said that the influence of Rousseau on his period and on later times was greater than that of any other man since the Reformation, and among his successors to fame only Karl Marx can rival him. We are even justified in saying that the influence of the apostle of the French Revolution was more extended from one point of view than that of the recent Russian Revolution because it captured, not a single economic mass interest, but, in morals and education, all the strata of thinking mankind. "All the dissatisfied, all the sufferers, recognized themselves in his hates and sufferings." At the same time his many-sided, complex, contradictory nature, combined with poetic imagination and rhetorical exuberance, with supernatural metaphysical cravings, satis-*

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*fied the most divergent social and philosophical appetites, and his influence became preponderant in the most antagonistic camps. In this manner his social system led at the same time to the Jacobin republic and to the Catholic restoration; to the sentimental philosophy of Jacobi and Maine de Biran, and to the romanticism of Chateaubriand. Simultaneously, many theses of his thought have become important elements in our present-day socialist conception in all schools which are animated more by justice than by economic class interest. Robespierre who visited him in his seclusion said to him—and his words were a vivid expression of the general sentiment of his epoch: “You divine one, you taught me to understand in my years of youth, you led me to appreciate the dignity of nature and to meditate on the principle of moral order.”*

*But he also won, in no less degree, the admiration of foreigners. Lessing called him the “daring, worldly wise.” Kant, the great passionless critic, regarded him as one of the noblest idealists, and the influence of the citizen of Geneva may be traced on every page of his political and social speculation. Nor did the sage of Königsberg ever conceal his indebtedness to the philosopher of the Ermitage. The only picture which hung on his bare walls was a portrait of the French philosopher. He used to say, “Rousseau set me in the right direction,” and he considered the French Revolution the outcome of the speculation of his master, as the strongest evidence of an evolving humanity. The second half of the nineteenth century and our own period with its rather conservative or anti-democratic tendencies have come to regard his achievements coldly and skeptically. Bluntschli sees in him little more than a dilettante, a speculative dreamer, and the judgment of Dunning is not more favorable. But more recently critics have again come to recognize the great philo-*

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*sophical power and the deep moral intuition of his genius. Thus Rudolph Stammler calls him one of the keenest thinkers in jural philosophy. That this more kindly and sympathetic appreciation will be accepted in the future estimate of Rousseau may confidently be expected, since the materialistic conception of society now so generally held has clearly and emphatically demonstrated that all political speculation and practical efforts without a moral compass must ever be barren and incapable of establishing a higher type of social coöperation.*

## THE SOCIAL CONTRACT

ARGENSON was right: the learned researches in the theory of the state are, for the most part, nothing but the history of ancient abuses. To study them too diligently merely confuses. From what has been done, the jurist infers a right to do. The result is a theory of state conforming to the most ardent wishes of tyrants. With such a mode of thinking one may question whether mankind does not belong to about a thousand individuals, like herds who have their masters who protect them in order to devour them. Even Aristotle was wrong in asserting that men are by nature unequal, some born to rule, others born to servitude. He confused effect with cause. Born into a condition of slavery, one acquires a slave nature; but force made the first slave.

Those jurists who perceive that force does not make right, that right can arise only out of agreements, attempt to justify the right of sovereignty in the following manner: "As an individual, disposing of his liberty, may hire himself out as a slave to his master, should not an entire people likewise be able to renounce their liberty and subject themselves to a king?" But the slave hires himself out for his subsistence. For what does a people sell itself? Does a king give his subjects what they need to sustain life? Must not the people, rather, provide the king with his needs? In truth, a king needs more than a little! It is said a king creates order and peace! Very well; but what about the wars into which his ambition plunges a

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people? the extortions which his greed and that of his officials effect? Do these not bring more misery to the subjects than the actions of the subjects themselves? One also lives peaceably in prison.

Others appeal to the right of war, to the alleged right of the victors to make slaves of the vanquished instead of killing them. But that is force, not law. The subjection of the vanquished is a continuation of war. One should not call the subjection of the masses the government of a people. To understand the origin of government it is necessary first to explain how and in what manner a state originates.

In the evolution of the human race there was a time in which the obstacles, which had to be overcome to sustain life, were so great that the individual alone, with his own strength, could not conquer them. Men perceived that they had to unite their strength in order to support themselves. Nevertheless, each felt that his own strength, and its free exercise, was the principal means of his support. Thus mankind faced the great problem, How to build a society where the entire strength of all would support and protect each individual and at the same time permit him to remain as free as before? The problem may not have been thus definitely formulated; but that was always the idea toward which mankind has striven.

There was only one solution to this problem: Each individual placed himself completely at the disposal of all, and the supreme direction of all affected each individual in like measure. These are the essential conditions of the social contract. Thus the entire strength of all became the advantage of each, and, as the conditions applied equally to all, no one had an interest in making

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conditions difficult for another. Thus they became at once a body with one will and many members. But since there is something in human nature that inclines the individual to shirk a duty, although as a rule it meets with his approval, there must be added to the social contract the condition that he who does not obey the will of all will be forced to do so.

In consequence of the social contract, a great change was effected in man. Up to this time desire and instinct were the mainsprings of his actions; now he was guided by a sense of justice and duty; he had regard for others. Instead of natural liberty, which found its limits in the measure of his own strength, he now enjoyed the civil liberty whose limits were established by the will of all. Before, he possessed only what he had in his power; from now on the community decided by what means and ways the individual could acquire property. The community protected him in his property, but it also had the disposal of it, as it did concerning his person. The social contract, however, by no means abrogates natural equality; on the contrary, the inequality in spiritual and physical strength becomes equalized through the legal equality. That should be the fundamental principle of every social system.

Only because men have also common interests is society at all possible. If the interests of men did not meet at certain points, society could not exist. To determine the common interests and the common welfare and to guide the strength of the state to this end require nothing short of the people as a whole. It is, however, possible that the general will may now and then coincide with the particular will of an individual or of a part of the people; but

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this is not possible for a long period, for each separate will naturally seeks advantages, but the general will seeks equality. Nevertheless, there is no guaranty for this agreement; and for that reason a people should never say, I want what that person or that group of persons will want. The highest in the state, the sovereign, is the general will. Sovereignty belongs to the totality and cannot be transferred to an individual or to a part of the people. The expression of the general will, the expression of the sovereign, is the law.

The general will is always directed toward the good. For each individual always gives his consent with the understanding that the law applies to him as well as to all others. One may be wrong, but one does not wish evil. More than that, everyone knows that his decision will become realized only so far as it coincides with the general will; and even if each thereby pursues his own interest, he will keep to the course in which he may hope for a general concurrence. For that reason, if the people are properly informed, there will be no great distinctions (because what each wishes for himself, he wishes for all), but a great number of small differences, which will be eliminated, and the result—the general will—will be a good decision.

But this will only be the case so long as there are within the state-union no special, smaller unions, such as classes and parties. Where there are such, the individual voices will no longer be directed toward the general welfare or the general will, but will follow the parties and the classes. Then there will be no longer a great number of small differences which will mutually cancel one another—for then parties, not persons, will vote—and the result will



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not be the general will; the largest party, its special interest, its particular will, will conquer. If a true expression of the general will is to be maintained, no separate associations should be tolerated within a state.

The general will, in truth, exercises unlimited control over the members of the state, but it cannot with reason impose burdens which do not serve a common need. Each one will think of himself when he votes concerning matters that are to be binding upon all. Because the general will does not only proceed from all, but also applies to all, it will always be directed toward the right and the just. Its content and its object must always be general; it can dispose of nothing which pertains only to an individual member, such as a sentence. The law must affect the subjects as a whole, apply to all actions of a kind, never to an individual person or a particular act. But the moment the thing to be decided is a foreign affair, the plumb line of equity disappears. Not so much the number of voices, but far more the common interest, makes the general will really general. That each one subjects himself to the decision which he imposes upon others—this is the source of justice and of harmony. The equality of all members is the fundamental condition of the social contract. Equal rights, equal duties for all. The general will must always burden or favor all citizens in equal measure. This equality gives rise to civil liberty instead of natural independence, and, as a result, the civil condition will be better than was the natural condition. The power to injure others has been exchanged for individual security. Instead of self-defense, we have rights protected by all. In an emergency it will, of course, be necessary for all to fight for the fatherland,

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but in the state of nature each had continually to defend his own life. The social contract aims to maintain those who conclude it, but a certain risk is unavoidable: he who would preserve his life at the expense of others must, in case of need, give his own for their sake.

Laws are the conditions of civil society. It is for those who unite themselves to establish the conditions. The general will must determine the laws; all the people decide concerning all the people—that is a law. But, it may be questioned, are the masses equal to this task? The people may have good intentions, but they lack the intelligence; they need guidance, that they may not be led astray, deceived by appearance, sacrifice the general welfare to a momentary advantage or to a special interest; the people need a lawgiver who will point the way for them.

To find the best norms for society would require a superman who understood all human passions but experienced none himself, whose fortune is independent of human fortune and yet who is inclined to concern himself with it; one who has the patience to labor a hundred years with the consciousness that the fruit of his labor will not ripen until a hundred years later. In truth, it would require a god as a lawgiver. A great ruler seldom appears; a great lawgiver still less often. One man is the inventor of a machine; another, a mere laborer who keeps it in motion. The lawgiver creates a constitution, the constitution makes the ruler. .

He who undertakes to establish a constitution presumes to transform human nature, to refashion men, each one of whom is an independent being, as parts of a greater being. That is, to kill in man the existing, natural stamina and inoculate him with new faculties which he could

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only use in connection with other men, so that from now on he could not live an independent life, but live together only with others as part of a whole. And the new, united strength of the whole must counterbalance the sum of the natural forces of the individuals, yes, overbalance them; then legislation will have attained its goal.

The lawgiver occupies an extraordinary position in the state. He is outside of the constitution which he creates. He is not an authority; his lofty activity has nothing in common with government; he is supposed to have no power and no command over anyone. If he did have, self-seeking aims would inevitably tarnish his work; the laws would become instruments to perpetuate his passions and his injustices. When Lycurgus gave laws to his country, he began by abdicating his royal dignity. The Greek cities were accustomed to intrust the framing of their laws to foreigners.

Legal projects, drafted by a wise lawgiver, are not enacted into law until they have the approval of the people, of the general will. But, will the people comprehend the far-sighted projects of the wise? Will they submit to the abstinence which good laws impose upon them? To have a nation, when first formed, appreciate sound principles of politics, and follow them, it would be necessary to have the effect become the cause; to have the social spirit which is to create the constitution effective at the time that the constitution is established; to have men, before laws are laid down, already what they are to become only through laws. For this reason the fathers resorted to the god-head for mediation and placed their higher intelligence in the mouth of a god in order to move the people to obedience. But it is not given to everyone to permit

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the gods to speak for him, nor to find credence when he represents himself as their messenger. The really great soul is the witness of the mission; it is itself the miracle. A juggler's art may deceive the people, but to establish permanent societies, to give laws that will outlast centuries, wisdom alone is required.

The purpose of a wise lawgiver is not to devise the absolutely best laws, but such as are suited to his people, such as the people can endure. It avails nothing if the laws are good and the people are bad. The lawgiver must know whether the people are ready for a law, else his work is in vain. He must have regard for ancient customs and prejudices. Not the introduction but rather the extermination of laws is what causes the difficulty; people will not permit their old wounds to be touched. But there are times when they cast off the chaos of the past and become as receptive as they were in their youth.

A proper extent of territory is, above all things, essential to the good constitution of a state. If it is too large, it cannot be governed well; if it is too small, it cannot maintain itself.

In a wide expanse of territory the costs of government are multiplied. Commune, district, province, state and empire—all are to be administered at the expense of the people. Nor do these numerous governmental units serve as a means to better government. Quite the contrary. Government does not have the agility to compel immediate obedience to the laws, to remove abuses rapidly, to prevent oppressions at the proper time, and to avoid disturbances. The leaders of government are overburdened; they do not see with their own eyes, and subordinate officials rule the state. To maintain the

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ereignty over so many officials, scattered over a large extent of territory, demands the attention of the government to such an extent that it has little strength and time left to care for the welfare of the people. The natural conditions of the individual provinces are varied, their customs are different, the same laws could not be suited to all. But if, within a state, different laws govern, the result is confusion. The farther the political band extends itself, the looser does it become. The people have little love for the rulers whom they do not see, little for the fatherland which appears to them as large as the world, little for their fellow citizens who are mostly strangers to them.

On the other hand, there must be sufficient land to support the inhabitants. Extent of territory and density of population must be in the right relation. If the territory in relation to population is too large, too little land will be cultivated, there will be an excess of produce, it will be difficult to protect the borders, it will incite the neighbors to an attack, and it will involve the people in many defensive wars. Too small a territory, on the other hand, will make the state, in the satisfaction of its needs, dependent upon neighbors, and this will furnish an incentive to aggressive wars. A people which, in consequence of its situation, merely has the choice between trade and war, must subjugate others or be subjugated. The proper relation between population and extent of territory varies according to the character of the soil and the race of men. On the one hand it depends upon the land, namely: whether the land is level, mountainous, or bordering the sea, upon the climate, the fertility of the soil, the kind of products, etc.; on the other hand, it depends upon the

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character, the capacity, the needs, and the mode of life of the people, the fecundity of the women, etc. Of course the lawgiver should not merely consider the present condition of the land and people, but also the future, which through his regulations he hopes to attain. The founder of a state must give it a sufficiently wide base so that it will stand firm, maintain itself against inevitable upheavals; it must also attain a certain balance with neighboring states, in order to be able to withstand their urge for expansion. The weak will be devoured.

There are, therefore, reasons for expanding territory and reasons for limiting it. The latter, those which aim at internal stability, are the more important. One should rather depend upon the strength which springs out of a sound constitution than upon the external remedy which a large territory provides.

Only in time of peace and prosperity may the founding of a constitution be undertaken with success. While a state is being formed, it is like an army on the march—least capable of resistance. If in this critical period a war should occur, or a famine or an uprising, the state would be lost. No wise lawgiver would select such a time of confusion for the introduction of his plans; a usurper or a tyrant would—in fact he would even bring about confusion in order to carry through, amid general terror, what the people would never tolerate when in a spirit of self-possession.

The greatest good of all—which should be the aim of every lawgiver—consists chiefly in liberty and equality. Every citizen should be entirely dependent upon the community, but free from every particular dependence, completely independent of other citizens. Upon this, both

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the strength of the state and the liberty of the citizens depend; the same road leads to both. Every special dependence withdraws from the body of the state precisely as much power as it lays claim to. Without equality, liberty cannot exist. But equality is not to be understood as implying complete equality of power and wealth, but rather that no one is to have more power than is conferred upon him by law, and that no one should be so rich as to be able to buy another, and no one so poor that he must sell himself. Equality has been called a chimera which is never realized. Inasmuch as the natural forces always operate to destroy equality, the force of legislation must always be directed to maintain it.

This general aim of every good constitution must be perfected in various ways, according to the character of the soil and the people. Every people require a peculiar system of legislation, which perhaps by and of itself is not the best, but is best for that particular state. Only if laws conform to the natural relations, which do not permit themselves to be forced, will a constitution have permanence. The lawgiver must seek his aim in harmony with the natural forces, else the force of his laws will continually weaken until the constitution falls.

To have the laws inscribed upon tablets of bronze and marble does not make a constitution permanent. To inculcate the spirit of the constitution in the minds of the people, that it may live there, grow and strengthen daily, animate the old, have the power to restore—instead of force, to work through the power of custom, to transform the morals and the public opinion unobserved—that is real statecraft, that is the end that the lawgiver must have in view and follow subtly in all his regulations.

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Legislation is an affair of the entire community, of the head of the state, of the sovereign. The execution of the laws, the act of carrying them out in detail, is not an affair of the sovereign, but of his agent—the government, the prince. The head of the state and of the government (prince) are not to be confused. The government, whether it consists of one or of many, is the connecting link between the community as head of the state and the individuals as subjects. Its task is to apply the strength of the community to the end that the will of the community, the general will, obtains. Kings and officials are merely appointees of the sovereign.

Where the people, or the majority of the people, participate in government, so that there are more citizens who exercise supreme authority than there are private persons, the government is democratic; if the number of those who govern is smaller than the number of citizens who do not govern, the government is autocratic. Where the people have intrusted the entire power of government to a single individual, so that all other persons in authority draw their power from him—it is a royal, a monarchic government. There may be many grades of democracy and of aristocracy. The various parts of an administration may be so differently organized that mixed forms arise.

There has always been much controversy as to which form of government is best. Each may, under given conditions, be best; under other conditions, worst.

There is, for any one state, at a given time, only one good form of government, but for different nations and for the same nation at different times, any one of several forms of government may be good. The great physical



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variation among states would alone condition different governments. It may generally be said that for small states the democratic; for medium sized states the aristocratic, and for large states the monarchic forms of government are best suited. The greater the population the less is the influence of the individual upon legislation, and the greater are the departures of the individual will from the general will, of customs from the laws; the greater, therefore, must be the constraining power of government. But the power of government is strongest when it is in the hands of a single individual. The greater the number of officials, the more remiss does a government become. The conduct of a business becomes slower as the number who participate in it increases; there is more reflection but much more neglect. The more the energy of government is directed to its own agents, the less there is left for the people. In every official one may discern three essentially different wills: (1) the particular will, self-seeking, which aims at the good of the individual; (2) the class will, which has regard for the interest of the governing body; (3) the general will, which has consideration for the common welfare, for the laws. The first is the strongest, the last the weakest. Every man is, first himself, then an official, and last a citizen. In the conflict with the particular and the class will there is a considerable loss of governmental energy; but on the other hand, the more numerous those who govern, the nearer does their class will approach and strengthen the general will; while in monarchy, class will is merely particular will, and for that reason it is the strongest. In no form of government does the particular will have so much power, and in none may it overcome the general will so

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easily as in monarchy. Indeed, it is not easy to form a government which possesses great energy and at the same time is very apt to serve the common good.

Neither is it advisable that those who make laws also execute them. Their attention would thereby be taken away from general purposes and directed toward particular cases. But it corrupts a lawgiver if he permits himself to be led by special considerations, and that is a far greater evil than a government ruling contrary to law.

There never was, and there never will be, a democracy in the true sense of the term. The people cannot always remain assembled to devote themselves to the affairs of government. Democracy presupposes a very small state where the people may easily assemble and become acquainted with one another, where the customs are simple, and where the affairs of government are few and not difficult. Property-holding should be fairly equal, for without equality of property there can be no basis for legal equality. Luxury, which is in part the result of the wealth of a class and in part a stimulus to the acquisition of riches, should not be tolerated, as it corrupts the rich as well as the poor—the former through gratification, the latter through desire—and abandons the welfare of the country to lust and frivolity and the ultimate withdrawal of the citizens from the state, inasmuch as it makes one class the slaves of another, and all slaves to delusion. Montesquieu rightly recognized that the motive power of a republic is virtue, that that alone can maintain it. Democracy also places the greatest demands upon the watchfulness and bravery of its citizens in order to protect the constitution; for no government is threatened so much with the danger of revolution as the democratic.

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It demands men who daily say, Better a precarious liberty than a peaceful slavery. Democracy requires a community of heroes.

The earliest societies were governed aristocratically: the heads of families advised with one another and the people obeyed experienced old age. That was a natural aristocracy. Later, wealth and power gained the preponderance and ascendance over age; an elective aristocracy arose. Together with wealth, power also descended, through inheritance, to the children; there arose classes of nobles among whom government became hereditary, an aristocracy. Natural aristocracy is suited only to a primitive people. Hereditary aristocracy is the worst of all forms of government; elective aristocracy is the best; it is aristocracy in the true sense of the word; a governing body may thus be formed which unites justice, intelligence, and experience. The small number of those elected assemble readily, advise deliberately, and, in addition, command more respect abroad than the nameless masses. It is, moreover, superfluous to have twenty thousand participate in a work that can better be accomplished by one hundred who are efficient. At all events, a state should not be too large, or else the leaders of the provinces may easily make themselves independent and arrogate the government to themselves. Aristocracy does not, however, presuppose a strict equality of possessions, but, rather, moderation for the rich and sufficiency for the poor. The fact that the rich have more time to concern themselves with public affairs should not lead to wealth being preferred to service.

The best arrangement would be to have the wisest men rule—if one were certain that they would rule for

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the general good and not for their own; but the class interest of those who govern asserts itself and an irresistible inclination draws the energy of government away from law and the general welfare.

In a monarchy a single individual directs all the forces of government, according to law. There the governmental machine is moved with the least application of force; it may bring about the greatest effect; the question is merely, what kind of an effect. Everything is directed to one end, but that end is not the common welfare. No government is so powerful as the monarchic, but in none does the particular will, the selfishness of the individual, have so much power over the general will, over the general welfare, as in a monarchy. The power of government is directed to the disadvantage of the state. The monarchists, however, readily prove their case. They freely ascribe to the king every virtue that he needs. They always proceed upon the assumption that the king is what he should be. Upon this assumption, of course, the kingly government deserves preference over all others. Plato is of the opinion that a natural king is a rare being. How often do nature and chance meet to crown such a being? One should not confuse a kingly government with the government of a good king. One must also consider the possibility of there being incapable or base rulers, for such often succeed to the throne, or the throne makes them thus. Kings wish to be unlimited; they are told that the best means to this end is to win the love of the people, but this good advice is laughed out of court. That power which rests upon the love of the people may be the greatest, but it is insecure; moreover, the best kings also want the privilege of being wicked. Attempt

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to enlighten kings by informing them that the strength of the people is their own, that the well-being and development of the people are to their advantage. Kings know that the opposite is true—that if the people are miserable and weak, incapable of withstanding oppression, it will be to the advantage of kings. To govern the subjects to make them happy would, indeed, be the duty of monarchs; but despotism makes the people miserable in order to be able to govern them.

The monarchic government is also worse than the republican for this reason: at the courts of kings petty intriguers pave their way to the high offices, while the voice of the people nearly always elevates gifted men. The people make fewer mistakes in an election than kings do when they appoint men to office.

To have a monarchic state well governed, it would be necessary to have its size always carefully adjusted to the capacities of its rulers. A kingdom would need to expand or contract at every succession according to the endowment of the ruler. It is easier to conquer than to govern. In large states the prince, as a rule, is too weak. If the state is too small for its ruler—which is seldom the case—it will likewise be governed poorly because the prince will busy himself with grand schemes and thereby forget the welfare of the people, and through his superabundant ability make them no less unhappy than a weaker prince would through his incapacity.

An obvious evil of a monarchical government lies also in the fact that there is an interim from the death of the king until a new one is selected. It is a dangerous, stormy period, full of intrigue and corruption, unless the citizens are unselfish and just to such an extent as is scarcely pos-

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sible in a monarchy. A king who has purchased a state will also sell it. The price which the powerful have extorted from him he will in turn exact from the weak. Under such a government everything will become venal. To avoid the evils of royal elections, the crown was made hereditary in the family line and the succession to the throne fixed. That is to say, men preferred to depend on being governed by children, weaklings, or prodigies, rather than to quarrel over the election of a good king. Much care was supposed to have been given to educate the young princes in the art of governing, but they were spoiled all the more; for to educate a man to command others is the equivalent of divesting him of justice and reason. Better teach him what it means to obey. According to Tacitus there is a simple rule for kings: Consider whether you as the subject of another would wish what you propose for yourself.

The monarchic government is the most expensive and the most wasteful; only rich nations can endure it. In fact, every government consumes what the labor of the people produces. The tax burden is not to be measured merely by the amount of taxes imposed, but much more by the amount of tax that flows back to those who paid it. If the return is well ordered and rapid, it does not matter much whether one pays much or little. On the other hand, if the people give ever so little, and that little does not return to them, they will soon become exhausted and miserable, since they only give. The more a government removes itself from the people as a whole, the more oppressive will the tax burden become; it is least in a democracy, greater in an aristocracy, and greatest of all in a monarchy.

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The surplus of the product of labor depends upon climate; consequently the most suitable form of government also depends upon it. In the tropics, where the luxuriant soil yields abundant fruits for little labor, where one needs but little upon which to live, the extravagance of the despot may consume the surplus. In temperate climates, where the surplus is not greatly in excess of the indispensable, free constitutions are in order. In the rigorous north and in desert regions, no government, no state, is possible.

The form of government depends also upon the density of population. Thinly populated countries submit themselves most readily to the government of a tyrant. The larger the area over which the population is dispersed, the more difficult it is for the people to rise in revolt; they can unite themselves neither rapidly nor secretly; it is easy for the government to discover their projects and frustrate their combinations. The closer a large population lives together, the more difficult it is to wrest the power of state from the people, for the people can assemble rapidly and the leaders decide rapidly.

How is one to know whether a people is well or badly governed? How is one to judge the welfare of the people? In judging the past, man has usually erred. Too much admiration is bestowed upon the flourishing of art and science, for that is usually only the gloss of the surface. One permits himself to be blinded by the praises in which the poets of those times indulged, and does not recognize the coarse selfishness that lay behind the splendid lines. A poet receiving twenty thousand pounds annuity is not proof of a golden age; nor does this proof depend upon the leisure of the highest class, but upon the welfare of

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the greatest number. The index to the prosperity of a people is the birth rate and the death rate.

Government has a natural inclination to abuse the power of the state. Between the government and the sovereign (people) there is an unavoidable and incessant war which sooner or later ends in the government suppressing the sovereign. The social contract is then broken, the state is dissolved, and man obeys force. Every state faces this age, this death. Dream not of eternal constitutions!

The durability of a constitution depends upon the strength of the legislature, which is the heart of the government. One must hold fast to the principle that only the people assembled can pass laws. What—the people assembled? At present? Impossible! Chimeric!—I hear some remonstrate. But they should deal carefully with the word “impossible.” The truth belies them. The last census in ancient Rome gave a population of 400,000 citizens capable of bearing arms, and yet very few weeks passed without the Roman people coming together to exercise the right of sovereignty. Very well, you say, this may be true of one city, but there are many cities in a state! It is always a mistake to unite many cities into one state; if this mistake is made, the evil consequences cannot be avoided. It may be asked, How could such small states exist, how withstand the large states? Through alliances. As Greece withstood the Persian king, and as Holland and Switzerland withstood the house of Austria. The population should be uniformly distributed throughout the country, there should be equal rights everywhere, equality in well-being; the fullness of life should be equally extended to all, not



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palaces here and miserable huts there. If there are many cities, there should be no capital city, but every city should in turn be the seat of government and of the legislative assembly.

It is not sufficient that the people, having once for all accepted a constitution, shall have inaugurated a government. They must meet at regular periods, determined by law; and while the people are assembled, in accordance with the constitution, the authority of the governing officials is to be annulled. The assembling of the people was always an abomination to the governing class. They spared no pains to prevent the people from meeting, to make it disagreeable for the citizens. If the people are covetous, slack, cowardly, think more of their convenience than of their liberty, they cannot long withstand the reënforced exertions of the government. When public service ceases to be the most important affair of the citizens, and they prefer to serve with money rather than in person, the decline of the state begins. Soldiers are sent to the field, representatives to the city hall: the former subject the people; the latter sell them. The citizens pay gold—for chains. There are no finances in a free state. There the people serve the common welfare with their own hands, not with gold. Taxes are far more repugnant than compulsory service. If a constitution is good, public affairs are far more important to the citizens than private. There are then, also, a far less number of private affairs; that part of the general well-being which flows to the individual is far more significant; individual cares are less. Under a bad government the people go about their own business, but do not go into the popular assembly. "What does that concern me?"

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one hears them say. They know beforehand that in the legislative assembly the general will, or the general good, cannot come into favor. Under such conditions the state is in decay.

The excessive size of states, which grew out of conquests, the misconduct of governments, selfishness, and the abatement of love of country in the hearts of the citizens, permitted the false notion to grow up that the people could be represented in the legislature through delegates. But the general will cannot be delegated; it is general or it is nothing. Laws should be merely the expression of the general will. The people should not permit themselves to be represented in the legislature lest their liberty perish. The people fancy themselves free because they elect their representatives. During the election they are—perhaps—free; after the election they are the slaves of their deputies. Representation should only take place in the execution of laws. For this reason the people can protect their sovereignty only in small states.

It is an old practice of governments, in order to maintain their power against the will of the people and at the same time keep up the appearance of legality, to prohibit popular assemblies from meeting under the pretext of public peace, and to explain the forced silence of the people as proof of their consent. On the other hand, one should not confuse the clamor of a party with the will of the entire people. Regularly recurring popular assemblies which must meet at stated periods according to law, without a special call, are the best safeguards against the abuse of governmental power. These assemblies should always be opened with a vote upon two questions, which

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should never be omitted: 1. Will the people retain the existing form of government? 2. Will they retain the present government officials?

In the states of today, with their fundamentally bad constitutions, the general will cannot be determined. Even if everyone should vote, no one will vote in the spirit which would say, "This is, according to my conviction, best for all." His reflection is rather, "This is to my advantage," or, "This benefits my party." The result is that the moral union of society is destroyed, and under these conditions no laws, in the true sense of the word, can arise. Vulgar selfishness plumes itself insolently with the name "common welfare." Politics is turned to craftiness, to secret, fraudulent machinations. The dissensions, the great amount of talking, the tumults, in the legislative assemblies are quite trustworthy evidences that the common welfare is not up for consideration, but that special interests are quarreling with one another. The nearer the approach to unanimity, the more certain it is that the general will prevails. If plain, honest men unite themselves for common support and welfare, and sincerely strive for peace and harmony, the general will springs from sound common sense. But few laws are then necessary; if a new one is necessary, the necessity will be generally recognized, and the one who proposes it merely expresses what all have long felt, what each for himself has already decided to do as soon as he is certain that the others will also do it. The general will is manifest when all citizens express their will in this thought: "According to my conviction, this and that will redound to the welfare of all, and I am also of the opinion that all others think the same." If a part has erred in its opinion

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concerning the general will, it will voluntarily subject itself to the voice of the majority, since it sought and seeks the consent of all.

To strive in harmony toward the common good—that is civil liberty. Something entirely different is the consent of the enslaved masses—if they fear or worship one.

## CHAPTER XII

HAMILTON (1757-1804), MADISON  
(1751-1836), JAY (1745-1829)

### INTRODUCTION

*IF ANY* single work on government may be said to represent American political philosophy more than any other, undoubtedly that work is a series of essays written by Hamilton, Madison, and Jay, at the time that the Federal Constitution was presented to the several states for ratification, and later published under the title of *The Federalist*. The mere fact that a work of this character has, since its first publication, appeared in some twenty-five different editions, is in itself suggestive of its importance. But there is far stronger evidence to justify its inclusion in a book containing the world's greatest political philosophers. Thomas Jefferson called it "the best commentary on the principles of government which has ever been written," and a hundred years later John Fiske could still call it "the most famous of American books." Chancellor James Kent in his "Commentaries" goes so far as to say, "I know not indeed of any work on the principles of free government that is to be compared, in instruction and intrinsic value, to this small and unpretending volume of *The Federalist*, not even if we resort to Aristotle, Cicero, Machiavelli, Montesquieu, Milton, Locke, or Burke"; and Carson, in his *History of the Supreme Court*, is even more



JAMES MADISON

ALEXANDER HAMILTON

JOHN JAY



## HAMILTON, MADISON, JAY: INTRODUCTION

*lavish in his praise by saying "that for comprehensiveness of design, strength, clearness and simplicity, the book has no parallel among the writings of men, not even excepting or overlooking those of Montesquieu and Aristotle." Nor was the praise accorded to The Federalist confined to English-speaking countries, though it has often been asserted that it did not receive, at the time it was written, adequate recognition abroad. In his scholarly book of Essays in Historical Criticism the late Professor E. G. Bourne of Yale clearly disproves this. It was early received in France as an important contribution to political literature. It was translated into French in 1792 and the authorship of the essays, which had appeared in America over a pseudonym, was first formally announced on the title-page of this edition. When the French learned who the authors were, Hamilton and Madison were at once ranked among the great political writers of the day; and the National Assembly, referring to the American authors, passed a decree "that the title of French citizen be bestowed upon all those philosophers who have had the courage to defend liberty and equality in foreign countries." A second edition appeared in France in 1795. In Germany, where it became known through the French translation, it received a thorough and favorable review; and when the contest for a real federal union was approaching its final stages, Wilhelm Kisselbach reviewed for the German people the formation of the American Union in a two-volume work entitled Der Amerikanische Federalist. A large part of the second volume is devoted to a presentation of the contents of The Federalist in condensed form. A Portuguese translation from the French edition of 1795 was published in Rio Janeiro in 1840, when there was a movement in Brazil to establish a federal republic like that of the United States.*



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*The immediate background out of which The Federalist grew is sufficiently familiar to the American student that only the salient facts need here be summarized. When in 1775 the Second Continental Congress took steps toward independence and became a general self-governing body, the colonies that had been governed by England proceeded to transform their colonial charters into state constitutions, though there was little change in the actual structure of government. But they were now independent states and as such they sent delegates to the Continental Congress, which constituted the general governing body in place of the king and parliament. This body, which was elected annually, was in practically continuous session throughout the revolutionary period and until the inauguration of the new government in 1789. But in 1781 the Articles of Confederation, which had been drafted and debated for three and a half years, were accepted and formed what may properly be called the first general American constitution. In the government thus created, a congress of delegates from the separate states constituted the chief organ of government, but it was without adequate power, since each state retained its "sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this Confederation expressly delegated to the United States in Congress assembled." And of those powers which were delegated to this congress, the more important could only be exercised by the concurrence of two-thirds of the states, and the Articles could be amended only by the consent of all the states. It was under this government that the conditions of anarchy, disorder, and rebellion arose that are referred to so frequently by the writers of The Federalist, and the need of a more perfect union, so ably argued in those essays, was more than a theory. It was a fact. And a fact so generally ad-*

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*mitted at that time that several serious attempts were made to remedy conditions; a suggestion from General Washington led to a conference at Alexandria in 1785; a proposal from Madison resulted in the Annapolis Trade Convention in 1786 and directly led to the Constitutional Convention at Philadelphia in 1787. After nearly four months of anxious work the Constitution was completed and on the 17th of September, 1787, it was presented to the states for ratification. New York was one of the important states, and there, under the leadership of Governor Clinton, a strong opposition was formed to contest the Constitution at every point. Lines were sharply drawn, and when, September 27, 1787, the Constitution was published in the New York press, there appeared on the same day of publication a letter in the New York Journal signed "Cato," sharply attacking the new government. From that time until the next meeting of the New York assembly, in the following year, the attacks continued in a series of letters under the same pseudonym, the writer being none other than Clinton himself. A little later another series in the same tenor, but even more violent, followed under the name of "Brutus." Hamilton, an ardent champion of the Constitution, answered these letters under the signature of "Cæsar." But later he discontinued these personal attacks and, together with Madison and Jay, began a new series of letters which were published alternately in the Independent Journal and the Daily Advertiser over the pen-name of "Publius." The first of these letters was published, October 27, 1787, under the heading of "The Federalist, No. 1." These letters, eighty-five in all, were designed to form a treatise on "the principles of the whole subject" and form the volume which is now known as The Federalist.*

*It is perhaps not strange that after the value of this work had*

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*become generally recognized, a dispute should have arisen among the historical scholars as to the exact part that the two leading contributors, Hamilton and Madison, played in producing it; nor is there yet an agreement concerning it. But recent investigations have generally ascribed five out of the eighty-five numbers to Jay, at least twenty-nine to Madison, and fifty-one to Hamilton. But while Hamilton contributed the largest number, and to him must be given the credit of originating the idea of the series, the most difficult part of the work, that which deals with the history and analysis of federal government in general and its application to America in particular, fell to Madison, who was especially fitted for the task by his thorough knowledge of ancient, mediæval and modern confederations. "We may feel sure that Madison," says Professor Bourne, "in 1787, had more thoroughly studied and knew more of the history of federal government than any other American or Englishman." But he was more than a speculative theorist who knew history and government and such writers as Aristotle and Montesquieu, for he entered upon a political career at an early age and was an active participant in the major movements of our political history from 1775 to the close of his Presidency. Since, unlike Hamilton, he has never received the popular recognition which he deserves from his countrymen, whose government he did more to establish than any other single man, the reader may properly be reminded here of some of the more important services that he rendered to his country from the first meeting of the Second Continental Congress to the adoption of the Federal Constitution. He was among the first to see that the question of the union of the states would depend upon a proper regulation of commerce; he was a member of the Continental Congress; he was directly responsible for the calling of the Trade Convention at Annap-*

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*olis in 1786 which led directly to the Constitutional Convention of 1787; in that convention he kept a daily record of the proceedings which alone should entitle him to immortal fame; he drafted the outline which formed the basis of our present government; when the Constitution was sent to Virginia for ratification it was through the sheer force of his argument and logic that the state convention came to adopt it; and finally, he turned his energy, in The Federalist essays, to the people of the state of New York and urged upon them the acceptance of the Constitution.*

*If Hamilton was less balanced and less judicious than Madison, he had more brilliancy, magnetism, and driving power in arguing a cause. When the New York convention which finally ratified the Constitution assembled it was found that two-thirds of its members were opposed to the new government; and whatever part interests may have played in winning the Anti-Federalists to the side of the Union, Hamilton's leadership and the force of his argument did much to break the ranks of the opposition. The five numbers written by Jay deal largely with foreign relations, a task for which he was especially qualified, having been Secretary for Foreign Affairs under the Confederation and one of the negotiators of the treaty of peace in 1783. Even before the Revolution he had distinguished himself as a lawyer of note in New York City; and as a member of the First Continental Congress he drafted an address to the people of Great Britain which was adopted by Congress. In 1779 he was again elected to Congress and was president of that body for a short time, until he was appointed minister to Spain. He was the only one of the writers of The Federalist who was not a member of the federal Constitutional Convention, but that was because he was in favor of the Constitution and New York was not. When that*

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*document was later submitted to his own state for ratification, its final acceptance was in no small measure due to his influence. But to place an estimate upon the part that each of these three great Americans performed in producing this masterpiece is not the purpose of this introduction; after all, the significant fact is that together they produced a symphony of political philosophy that belongs to the literature of the world.*

*And whatever defects the government for which they argued may have since developed in practice, time has justified their theory; nor can there be any doubt that the framers of the Constitution themselves, however they may have differed as to means, were all bent upon the achievement of the greatest idea in political history—the establishment of justice with all that it implies. Perhaps no one of the fifty-five members of the Constitutional Convention possessed more intellectual sincerity or was less given to sentimental panegyric than the “Father of the Constitution,” James Madison, himself. After his death, in 1836, there was found among his papers a rough draft in his own handwriting in which he expressed the following opinion:*

*But whatever may be the judgment pronounced on the competency of the architects of the Constitution, or whatever may be the destiny of the edifice prepared by them, I feel it a duty to express my profound and solemn conviction, derived from my intimate opportunity of observing and appreciating the views of the Convention, collectively and individually, that there never was an assembly of men, charged with a great and arduous trust, who were more pure in their motives, or more exclusively or anxiously devoted to the object committed to them, than were the members of the Federal Convention of 1787, to the object of devising and proposing a constitutional system which should best supply the defects of that which it was to*

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*replace, and best secure the permanent liberty and happiness of their country.*

*How enduring and permanent this system was to be, has been attested by a hundred and forty years of our history, during which the population increased from three million to a hundred and twenty million, and the territory expanded from thirteen states to forty-eight states, the territory of Alaska and possessions beyond the seas. Mr. E. A. Freeman, a distinguished English historian, in a work on The History of Federal Government, published in 1863, when the American experiment in federalism seemed to him in doubt, wrote: "It is dangerous to prophesy, but one cannot help thinking that the United States and the Confederate States will have exchanged ambassadors before the year 1941 or even before the year 1869." We have already gone beyond his earlier date by more than half a century, and if our democracy does not survive beyond the final date set by Mr. Freeman's prophecy it may be not so much because of an inherent defect in federalism as because of a departure from the principles laid down by the fathers of the Constitution and so ably expounded in The Federalist.*

ON ESTABLISHING THE CONSTITUTION  
OF THE UNITED STATES (THE  
FEDERALIST)

HE WHO hopes that independent, neighboring states can live in perpetual harmony with one another is a Utopian dreamer who knows neither life nor history; he forgets that men are ambitious, covetous, vindictive, possessing every attribute to discord. The malevolence of states may be explained through various motives. There are reasons which continually incite masses against one another, such as love of power, the urge to leadership and control, commercial rivalry, or the desire for equality and security. There are causes of war rooted in the passions of leading statesmen: friendships and enmities, interests, hopes and fears of kings, of favorites of kings or nations. Under pretext of promoting public welfare, they sacrifice the peace of nations to their own selfishness. Then, there is the influence of women which we pass over in silence.

It is said that republics are inclined to peace; that the spirit of trade makes for peace and friendship. Experience has demonstrated the falsity of these assertions. Are republics not governed by human beings? Are the masses so philosophically inclined as not to permit themselves to be torn by a sudden emotion, by a momentary advantage? Are the people free from envy, hate, greed, attachments, and aversions? Are popular assemblies

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free from the fury of anger or the desire for revenge? Are they not largely under the influence of the few in whom the people have confidence and from whose passions and opinions contagion spreads? Since the development of world commerce, have not as many wars been waged in the interest of trade as were formerly waged to conquer and rule territories? Is the passion for gain not precisely as strong and adventurous as the passion for power and glory? Has trade not rather nourished the impulse to conquer? Athens, Carthage, Rome, Venice, The Netherlands—commercial republics—have they not conducted wars?

He who talks of eternal peace between independent states, either deceives or dreams. The statement of the Abbé de Mably may well be regarded as a political axiom: "Neighboring nations are naturally enemies of each other, unless their common weakness forces them to league in a *confederative republic*, and their constitution prevents the differences that neighborhood occasions, extinguishing that secret jealousy which disposes all states to aggrandize themselves at the expense of their neighbors."

Countless treaties and alliances between independent states have been made and broken. They are observed or disregarded, as the interest or disposition of the parties, for the time being, dictates. European statesmen, in the hope of maintaining the balance of power and preserving world peace, have, on sundry occasions, concluded triple and quadruple alliances, which by a sudden turn of fortune came to naught. Mankind should learn, once for all, that in the last analysis, no confidence should be placed in treaties based solely upon the sanctions of faith and trust. General considerations of peace and justice have no power



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of resisting the impulse of an immediate advantage or an impassioned appeal of a group, or even of foreign intrigue.

A confederation in which the separate states retain their sovereignty is of little consequence and is short lived. There is usually a federal council whose decisions the states, that is, the governments, are pledged to support; but its decisions are not binding upon the individual citizens until they have been approved by the states themselves. Thus sovereignty of the states is maintained, with the result that the decisions of the federal council are merely declarations of good intentions and pious wishes. The council itself is not a government; it is not provided with an administrative staff and a court of justice to carry its decisions into effect. It is silly to hope that the state governments, out of regard for the common welfare, will comply with the requests or proposals of the council. One should not mistake the mainsprings of human action. If men would follow the dictates of reason and justice, government would be unnecessary. But, does anyone suppose the conduct of a corporate body to be more upright than that of a single individual? Responsibility is divided and restricted, and common experience teaches us how often the acts of an association would put an individual to shame. If the measures adopted by a confederation were dependent for their execution upon any one of the separate governments, there is little likelihood that they would be executed at all. It is quite natural to suppose that the various governments within a confederation would jealously oppose every attempt to limit their power, for love of power is jealous. Each separate government would feel itself called upon to challenge the justice of the federal decisions, and that by standards formed of its own

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interests and aims, its local patriotism, without adequate knowledge or a proper evaluation of general conditions. Thus harmony would be of short duration. Let a single state permit itself a slight deflection; it leads to greater transgressions. The example is followed by others. The loyal members will reason: "Shall we alone bear the burdens of union?" Dissolution follows. Force federal decisions upon self-governing states? That means war!

Government *over* sovereigns is nonsense. A federal republic must have a government which by means of its two arms—the administrative and judicial—can enforce its will upon the individual in all his activities, hopes and fears; it must have the power of direct legislation and have officials to enforce its laws. Against states the war power must be directed; but against individuals the milder pressure of magisterial authority may be applied; to choose the former is contrary to enlightened policy.

It is one of the natural defects of a federal government that it is farther removed from the life and thought of the citizen than is the government of one of its members, the state. The latter administers civil and criminal justice, protects life and property, regulates those personal and family affairs which directly concern society, renders services which strike the eye and imbue with respect and attachment; while the individuals do not feel directly the benefits of the federal government, many of the foreign relations and affairs of a general nature that only the reflective mind can perceive pertain to the federal government as a whole and do not directly come within the range of activities pursued by the separate states. Moreover, questions arising within this broader sphere require greater deliberation. The people stand in closer contact

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with the numerous state officials than with the small number of federal officials; they are more intimately bound to them through acquaintance, friendship, kinship, and party ties. It follows that state governments will have greater influence with the people, and enjoy in greater measure than does the federal government the confidence and support of the masses. Then, too, the very organs of the federal government are less disposed to local patriotism. For this reason no fear need arise lest the federal government encroach unduly upon the rights of the states; such attempts could easily be thwarted by a just and wisely administered state government through enlisting popular support and by means of an appeal to public opinion. There is much greater likelihood of encroachment by the states—a danger against which the federal Constitution aims to guard by keeping the two governments in their respective grooves. The inherent weakness of the federal government should be redressed through a strong organization and a superior administration. And, as the federal government will have a larger field from which to select its personnel, it should have a more excellent administration.

That each state, whether large or small, without regard to population, should have an equal voice in the Senate, is contrary to the fundamental principles of a republican constitution according to which a majority should decide. One may reply by saying that the states “as sovereign” are equal and that a majority of states would constitute a majority in the general government. This is sophistry, as a majority of states might represent only a minority of the population. Nor is it conceivable that this sort of subtlety would long deceive the people to the extent of com-

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placently permitting two-thirds of their numbers to be governed by laws enacted by representatives of one-third of the population. Neither would such inequality long be tolerated by the large states. The small states would realize that their own security is far more dependent upon the preservation of the Union than that of the larger states, and that by insisting upon the arrogant demand of equality in voting, they would destroy the Union.

In important decisions it is not unusual to require as high as two-thirds or three-fourths majority, or even a unanimous vote. But in practice such a rule operates contrary to the theoretic assumption and the aim to be attained. The thing actually desired is that more than a bare majority shall decide, but in reality the decision is placed in the hands of a small minority. If complete unanimity is required, a single negative vote or an absence will defeat the will of the majority. The Polish veto is an example. The mature deliberation of a majority will be sacrificed to the whim or evil intent of an insignificant, arrogant, or corrupt faction; the government will be weakened. Everything may call for action, but the faction will set itself in opposition and the result will be delayed transactions, intrigue, concessions at the expense of the common welfare. The majority must yield to the minority in order to deal at all. In other words, action, the good, the necessary, will be delayed or unperformed. It also promotes foreign corruption, for the enemy needs only to corrupt a small number to prevent decisions of which he does not approve.

Along with the many advantages of a republican government there is, unfortunately, this weakness, that it is more accessible to foreign corruption. It is scarcely pos-

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sible to bribe an hereditary monarch. Those who have been elevated for a period to a high position by a popular vote are much more easily corrupted by a salary that is far in excess of their civic interest in the public welfare. A king may sacrifice the people to his ambition, but a foreign power could scarcely offer him a bribe large enough to tempt him to betray his country. History reveals countless vices of kings, but it seldom accuses them of venality; of this form of crime, history reveals far more examples among republican governments.

If the conditions are such as to require, instead of a simple unitary national government, a federal government, then it will be necessary to decide, first of all, what powers should be given to the federal government and what should be left to the states. But having determined this, it is necessary to grant freely to each government all powers necessary to accomplish the purposes for which the power was conferred. To place the most important interests of the people into weak hands would be irrational. The means must be adapted to the end. The power of government should not be curtailed, but rather the government should be so organized as to inspire confidence. He who is intrusted with a mission must be trusted with power and means necessary to execute it. Whether or not fear that power will be abused is justified will depend upon the organization of government, not upon the extent of its power. If common protection and the maintenance of peace against external attacks and internal disturbance is incumbent upon the federal government, it must be authorized to levy troops and provide the necessary revenue; it must pass the necessary laws and execute them through its legislative and executive organs. To limit the federal

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government to a mere demand upon the states for military and tax quotas, would be to assign the task to the one and the power of executing it to the other.

The army is less dangerous in the hands of the federal than in the hands of the state governments. The means that might be employed to oppress a people are most dangerous when in possession of those in whom the people have the greatest confidence. Since it is impossible to determine in advance the requirements of the natural defense, the Constitution should not limit those organs of government which are intrusted with the task; neither their duty nor their authority would permit of restraint. Moreover, it is useless to place paper barriers before the current of life, for men will leap over them if it becomes necessary; but that will lessen the regard for the fundamental law and it is a dangerous example.

It would be a mistake if the federal Constitution should limit the revenues of the federal government to certain kinds of taxes, *e.g.*, custom duties. The needs of the Union cannot be determined in advance; neither can the means. To have the federal government merely determine the needs and then request each state government to give a fixed amount, would mean continual friction between the federal and state governments and also within each of these governments. Experience has sufficiently demonstrated that such an arrangement would be impossible. A government which is not permitted to impose taxes and open up new sources of revenue is crippled, has no credit and no value—how could it fulfill its mission? It is true that the state governments also have their needs the satisfaction of which is just as important. But the fear that the federal law, which must be regarded as the higher

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law, would drain the state of all its means, is groundless. It should be assumed that governments and people have some intelligence. Both governments are agents of the people, each with different functions and different powers; and the people whose needs are under consideration control both governments and hold the balance of power. The costs of an army, of wars and of war debts, have always constituted by far the greatest items of expense of every state—and for which the federal government must provide—and these expenses cannot be determined in advance; compared with them, the costs of internal and juridical administration which must be defrayed by the states are small and narrowly circumscribed. It would be preposterous to turn over the disposition of the sources of revenue to those whose needs are limited and withhold them from those whose sphere of activity requires unlimited means. It is a political axiom that means should be adapted to the end and power be proportionate to the task.

To delegate power without confidence would be a mistake. Confidence must be delegated to some one, and it is better to risk an abuse of confidence than to weaken a government. The danger of abuse should be guarded through a proper composition of government, not through a limitation of its power. There can be no more effective security in a state for the liberty of the people than to place government in the hands of representatives elected by the people. If they betray their trust the only remedy is self-defense—a measure by no means difficult against federal usurpation, since the people are already organized in their state governments. It would hardly be conceivable that, in a federal state, the government—either

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federal or state—would degenerate into a despotism: the two governments in their natural rivalries are balanced against each other. The very extent of territory would make it a difficult affair for the usurper: if he should conquer a single state, the people in the other states would rise against him. Then, too, the federal government could very easily quell an insurrection, whereas small republics are plagued with frequent revolutions. Thus a federal constitution forms the strongest safeguard against foreign enemies, usurpation, and insurrection; but only if that government possesses the necessary energy and stability.

Only a vigorous government can guarantee security against external and internal dangers. Only a government which enforces its laws promptly is a good government. Stability is essential to the dignity of government, to the dignity of the nation. Only a stable government can instill into the people that calm and confidence which are the chief blessings of a civil society. A vacillating legislature will be hated and despised. Those who plead for a strong government are not the enemies of the people; nor are those who always talk of liberty their friends. The flatterers of the people become their oppressors. The one problem is to combine vigor and stability of government with republican liberty. In a republican constitution all power should emanate from, and be delegated by, the people; it should be divided among many; and the dependence of the officials upon the people should be secured through a short tenure of office. On the other hand, to secure the necessary vigor, it is essential that the executive power be placed in a *single* head; and stability of government requires that power to be exercised continu-



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ously by the same authority for a considerable period of time—for new men, new measures.

The nature of a republican constitution is such that all those charged with the supreme power shall derive that power directly or indirectly from the people, and shall hold office for a definite, short period, or until recalled, or for a long period subject to good behavior. Governmental powers must be conferred by the great mass of people; a state wherein a privileged class through its administrator is permitted to oppress the people is not worthy of the name republic. It is sufficient, however, if a part of those who govern are elected by the people and the others by the representatives of the people. Otherwise it would be necessary to deprive every well-administered, popular government of its republican character.

It is one of the most fundamental principles of political science that the legislative, executive, and judicial powers should be separated, that their union under a single head leads to tyranny, regardless of whether those powers be exercised by one or many, by a single prince or by representatives elected by the people. This does not, however, mean a complete separation and independence of the three powers, functions and persons who exercise them. Montesquieu drew this doctrine from the British constitution, which he regarded as a criterion for the proper distribution of state powers. It is obvious, however, that in the British constitution the three departments of power—Parliament, the king, and the courts—are not totally separate. The king through his veto participates in legislation; he appoints judges; Parliament supervises the executive, exercises control over ministers and over the highest courts. This doctrine simply means that all the powers and func-

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tions of one department shall not be united with all the powers and functions of the other, for, if they are, as Montesquieu says, tyrannical laws will be passed and executed tyrannically; and the judges will become haughty oppressors. But that the three departments in part overlap and control one another is indispensable to the coöperation and unity of the entire state administration. New Hampshire seems to have been aware of the impossibility of avoiding any mixture whatever of these departments and has qualified the doctrine in her constitution by declaring "that the legislative, executive, and judiciary powers ought to be kept as separate from, and independent of, each other as the nature of a free government will admit; or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity."

But neither solemn declarations in the Constitution itself concerning the separation of the three departments, nor statements about their spheres of activity, will suffice to keep them really separate and independent. It is in the nature of power to overreach. History has taught nations that they must guard against the arrogance of hereditary princes. Republics are threatened with the danger of tyranny on the part of the legislative assembly; and a hundred-headed tyrant is no better than a single-headed.

The representatives of the people are conscious of their influence upon the masses; they are sufficiently numerous to appreciate the emotions of a large mass, though not so numerous as to be incapable of pursuing systematically the objects of their desires. The sense of responsibility of the individual member is weakened when alone; it is contagious and strengthened in the confidence of many. And,

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what is of chief importance, the representatives control the purse; they alone have access to the pockets of the people; it is they who not only provide the incumbents of the other two departments with the means necessary to conduct their office, but also with their salary. It is thus that their dependence upon the people is secured. It is, however, but human that representatives of the people should strive to exceed their constitutional authority and arrogate all power to themselves.

What is to be done to guard against such aggression? It has been proposed that, if a legal controversy of this kind should arise, the people should decide directly, or through their own representatives elected for that purpose, and approve or denounce the aggression. But while such an appeal to the people is indispensable as an emergency, or protective, measure, it is injurious as a regular remedy. Such an appeal reveals a defect of the constitution and, often repeated, deprives it of respect, veneration, and thereby a firm hold. For every government rests, in the last analysis, upon the opinion of the people concerning it. (The opinion of the individual is uncertain and halting; it becomes firm and courageous through the approval of others.) Then, too, to submit a question to the people arouses the masses and disturbs public tranquillity. A dispassionate, nonpartisan decision could scarcely be expected, for judgments are not formed upon the merits of a question, but upon its relation to parties and leaders. Since in republics, as already stated, it is generally the law-making body that overreaches, and since this numerous body is closely bound to the people through numerous ties of friendship, kinship, and other attachments, and the people regard them as their own trustees, a decision would

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generally be made under their influence and in their favor rather than according to reason and the Constitution. If the people themselves do not decide, but, instead, elect a college to pass upon the constitutional conduct of the departments of government, it is but natural to suppose that they would generally elect the same influential men who carried through, or fought against, the questionable measures—the plaintiffs and defendants would constitute the court. Even if the election of these were prohibited, some of their less gifted, but not less partisan, adherents would be likely to be elected. A decision after the lapse of a period would perhaps be just, but without effect. A legislative assembly of one hundred or more members would not be restrained by the thought that perhaps ten years later an investigation would follow. Then, too, the remedy would be applied too late; the injury would have been committed, and the abuses having ingrained themselves would be hard to eradicate.

In order to maintain the constitutional divisions of power of the state, the inner structure of government must be so formed that each department can defend its own position; and as each should have its own will, the members of one department should, so far as possible, have no influence in the election of members of the other departments. Strictly speaking, this would mean that the highest legislative, executive, and judicial officials should receive their appointments separately from the people. In regard to salary, also, they should be independent of one another. If the administrative and judicial officers are, in this respect, dependent upon the legislature, their alleged independence is a sham. The most effective security consists in having the administrators of each department

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personally interested in repelling the encroachments of the others. Personal interests must be linked with the legal rights of the position; ambition must be opposed with ambition; a deficiency in motives for the promotion of the public good must be replaced by the competitive zeal of private interests; the self-interest of every individual must be set up as a sentinel of public rights. This discernment and wisdom must permeate the whole order of human relations, public as well as private. As long as man rules man, there can be no other way.

It is not merely a question of protecting the people against government, but also a question of protecting one part of the people against the other. Where the will of the majority is regarded as law, great care must be taken to prevent that majority from becoming unjust to the minority, from robbing them of equal rights and oppressing them. Against this danger there are two conceivable remedies: (1) A power independent of the will of the people in the person of an hereditary monarch—a dangerous and uncertain remedy, for the king may combine with a majority for the purpose of oppressing a minority, or he may subdue both. (2) The other remedy is found in the size of the state, its extent and population. The larger the state and the more numerous the population, the greater the diversity of interests, classes, parties, and sects, and the more difficult will it become for a sinister, special interest to lead a riotous majority; the smaller the state the easier to do so. In a large state in which different kinds of interests and opinions must unite to form a majority, they seldom succeed unless the end sought is a just one and is for the common good. Thus the federal-republic system forms a twofold security for liberty and justice, since (1)

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power is divided between the federal government and the state governments, and (2) because the territorial area becomes larger.

A government should be so ordered that its interests will coincide with the interests of the people. The members of the legislative assembly must be directly dependent upon the people and be in intimate sympathy with them. This dependence and sympathy can only be achieved through frequently recurring elections. It is a fundamental principle of politics that the greater the power intrusted, the shorter should be its tenure; the smaller the power the longer the tenure. On the other hand, the legislator should not merely have good intentions and sound judgment, but also the necessary knowledge which in part can only be fully acquired in the service of lawmaking from official sources. And for this reason, in determining the tenure of office, one must consider the advisability of permitting the acquisition of the necessary experience. The knowledge which the legislator in a federal republic needs is of a different kind and more comprehensive than that required of a legislator of an individual state—that is, his mandate should be for a longer period. There are individual representatives, especially gifted, who will always be reelected and who, through long years of experience, will acquire a real mastery of political affairs. Their superiority, compared with the newly elected members, can be used to their own advantage if the tenure of office is so brief that a large number of the legislative body are unable to attain the information necessary to an efficient lawmaker. A contest over the legality of an election will also require a considerable amount of time and, if the tenure of office is relatively short, it may expire before the investigation is completed.

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It is a dangerous impulse to get into the legislature through improper means; for these reasons the tenure of office should not be too short.

The proper ratio between the number of representatives and the population cannot be arbitrarily determined. It should not be the same where the population is large as where it is small. Sixty or seventy men may be more properly trusted with a given degree of power than six or seven; but it does not follow that six or seven hundred would be proportionately a better depository. If we carry on the supposition to six or seven thousand, the whole reasoning ought to be reversed. A certain number is always necessary to secure liberty against oligarchic conspiracies and the common welfare against sinister relations, and that thereby there may be an understanding of local differences and that the sympathy of the legislature for all classes of people may be vital and discussion far-sighted and useful; but the number should not be too large if one would avoid confusion and turbulence of the masses. The greater the number of the representative body, the more will it become attached to the defects of popular assemblies, and there passion will of necessity be more likely to rule over reason. "Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob." The people are deceived if they think that the larger the number of their representatives, the greater their security against oligarchy. On the contrary; for the larger the assembly the fewer there are who actually decide issues, since they control leadership. The greater the number of members, the more there are of those whose knowledge and capacity are limited and who permit themselves to be led by the talkative and the crafty. A large

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number of representatives does give the constitution a more democratic appearance, but the spirit which animates it thereby becomes more oligarchic.

What assurance have the people that the government will not sacrifice the welfare of the large masses for the benefit of a small number? The government must be formed from men who are able to recognize the highest good of the community and virtuous enough to be honestly concerned about it; then measures must be devised to keep those who govern in the paths of virtue. These are the ends sought by the constitution. The first means to these ends is a general equality in the right of suffrage, a general equal eligibility. If those who govern are elected by the great masses, if the rich and the poor, the noble and the common, have equal electoral rights, and each, without regard to rank, property, descent, or faith, may be elected to office, in case his fellow-citizens consider him worthy of confidence, then the people have the possibility of selecting those who seem to be best fitted to realize the highest common good. The esteem, good will and confidence which are manifested in an election will certainly arouse in those elected a feeling of gratitude and attachment to the mass of electors. We often hear about the ingratitude of mankind, but the general criticism merely shows how strong the urge to gratitude is. Self-interest will also tend to stimulate those who govern to retain popular favor, especially if the tenure of office is short; that is the strongest incentive. It will continually remind them of their dependence upon the people, if otherwise the possession and exercise of power would incline them to forget their origin. They should always feel the imminence of the moment in which they may be returned



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to the common rank from which they were elevated by the will of the people. They must always be made to feel that they only have a prospect of reelection if they truly fulfill their duty. There is also a security against oppressive measures in that the laws which the legislators enact are binding upon themselves and their adherents in the same measure as upon the rest of the people. That creates common interest and sympathy, a strong bond, which intimately unites the governing and the governed, without which government is sure to degenerate into tyranny. But, one may ask, what is to prevent the lawmakers from creating legal distinctions and privileges in their own favor or in favor of a class? A watchful and courageous spirit must animate the people of the whole republic.

The separation of the legislative assembly into two chambers is an effective means of moderating the overwhelming power of this most powerful organ of the republic and of guarding against the abuse of their power while unmindful of their duty. Corruption and usurpation will be difficult if a decision requires the agreement of two separate bodies. This security will be strengthened if the second chamber is elected by a different method, for example, indirectly. Electing the three separate branches of government by different methods will prevent a single class-interest from making itself felt in equal measure in all departments. Eligibility to the senate should require maturer years in order to get men with experience and a firm character, spiritually and morally approved, secure against that ensnaring talent which, after a meteoric flash, dies. The first chamber of the popular assembly suffers because of the weakness natural to all large assemblies: it permits itself to be rushed to thoughtless conclusions on

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the high tide of passion through the violence of a single individual. A small second chamber, not afflicted with this fault, will oppose such conclusions. The senate should be elected for a longer period. Excellence in government depends upon two things—fidelity and ability. Fidelity to duty, to the end of government, means to work for the happiness of all the people and implies a knowledge of the means through which this end is best attained. The members of the house of representatives, elected for so short a period, have no opportunity of acquiring the necessary experience. The unending change of laws is sufficient testimony to the fact that lawmakers lack the knowledge necessary to their position; only because of their ignorance are the law books so ponderous. Nearly every change on the part of the present lawmakers is a complaint against their predecessors. And so a second chamber, whose members are intrusted with a longer tenure of office and who better understand the ends and means of law-making, may serve a good purpose. Moreover a rapid change of legislators brings about a rapid change of laws. New members, new opinions, new measures. But frequent change of measure is unwise and leads to no results—either in public or in private life. The state loses the confidence and the esteem of other nations, its own dignity and the prestige connected with it. As the individual who is inconstant and planless in his dealings is disesteemed, perhaps pitied by many, but exploited by most, and no one cares to associate with him, so likewise the state in the society of nations, except that here there is less sympathy and even more exploitation. A state which in its policy is planless and inconstant will become an object of speculation for others. Internally

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the consequences of a vacillating policy are even worse. Law signifies rule; but how can that be a rule which is continually altered so that only the few know what is valid today, to say nothing about what will be valid tomorrow! Such legislation can serve only a small number of initiated speculators who eagerly await every change of laws and their consequences, and with every change lay up new booty out of the proceeds of the toiling, ignorant masses. On the other hand, far-sighted undertakings for the common good will be prevented through the uncertainty and distrust thus engendered; but the greatest of all evils is the loss of confidence in a system of government which is without order and stability.

To the advantages of a senate with a long tenure of office must be added that of an elevated regard for the national dignity and the public opinion of the world. To have regard for the judgment of other nations is important for every government not merely because it is advantageous to have one's policy considered as wise and just, but also because in doubtful cases, where passion or momentary advantage disposes to a wrong course, regard for the opinion of the world may lead to the right way. An assembly that is large and has but a short tenure is not likely to be influenced by this regard. But in a body composed of but few members who hold their high office for a long period, each is conscious of his share of praise and blame, each feels that his honor is bound up with the honor and welfare of the nation.

There are two kinds of governmental action: those which operate singly and directly and those which take effect indirectly and gradually through a series of relations perhaps scarcely observable. To take cognizance of, and

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be responsible for, the latter, the more stable senate is far better adapted than the house of representatives whose members change in rapid succession. An honorable and thoughtful senate is directly useful in checking the impulses of the masses when they are blinded by passion or when, led astray by self-seeking leaders, they clamor for measures which they would soon regret.

Experience has amply demonstrated that the fear that the senate will gain the upper hand and change the republic to an oligarchy is groundless. History shows rather that against the weight of a direct popular assembly the senate can barely maintain its constitutional rights, that in fact it can do so only if it wins the confidence and support of the people.

The real test of a constitution is its ability to provide a good administration. Energy on the part of the executive is the chief requisite essential to a good government, necessary for protection against foreign enemies as well as for the firm execution of the laws; for the protection of the common welfare against selfishness and ambition, entangling alliances, partisanship, and anarchy. The history of the Roman Republic shows how often it was necessary to intrust unlimited power to a single individual called a dictator. To say that the executive is weak is but another way of saying that it is bad—which means that government does not function, however excellent it may be formed in theory. Executive vigor must be reconciled with republican liberty. A vigorous executive is only possible if it is single, has an adequate tenure of office, sufficient authority, and is reasonably secure in its subsistence. Its dependence upon the people and its responsibility are guaranties of the liberty of the republic.

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A numerous body in which various interests and opinions are considered is best adapted for legislation, while the executive power whose most important quality is energy is properly placed in the hands of a single individual. If the office is shared by a number, there is likely to develop diversity of opinions and jealousy to the point of enmity. This impairs authority, impedes decision and action, perhaps at the critical moment—it may divide the entire state into irreconcilable parties, adherents of opposing dignitaries. A man frequently opposes a plan because the idea did not originate with himself or because it emanates from those toward whom he is ill disposed. Having opposed the plan, he feels in honor bound to attack it continually, to delay it, and bring about its failure. How often the interests of society fall a prey to the vanity and stubbornness of those who upon the strength of their position succeed in interesting the masses in their whims and passions. If it is impossible to prevent the evil consequences of this human weakness in a lawmaking body, why should it be turned over to the executive power? Here it would be much more dangerous. In the legislative branch speed is not always desirable. Conflict of opinions tends to develop reflection; it curbs the arrogance of the majority. A vote will put an end to discussion; the resulting law will be valid for all. Lack of unity on the part of the executive has but evil consequences which continually disturb its course and its activity and destroy both its stability and its efficiency. As in the conduct of war, so too in the conduct of peace negotiations. If the executive power is in the hands of a council, responsibility becomes weakened. Statesmen are held to account in two ways: through public criticism and through legal penalties. The first is the more important,

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especially in elective offices. Acts committed by statesmen in consequence of which they would seem unworthy to be continued in office are far more numerous than those that would incur a legal penalty. But if a large number participate in a transaction it is by no means easy to determine who committed the serious mistake: each will attribute the fault to another, a feat by no means difficult in the more complex affairs of state. Thus a large number, acting together, diminishes the fear of public criticism and takes from the people the possibility of easily recognizing their unworthy representatives and of depriving them of their office. In general, the safety of the republic must find its security in the distribution of its power among many rather than in its concentration in a single individual. But this rule does not apply to the executive power.

The British constitution gives the king a responsible council, while the king himself is not responsible. In a republic where every official must be personally responsible for the conduct of his own office, it would be a mistake to add a council to the president. Such a body would merely weaken the responsibility of the president, would restrain his good intentions, would often be an instrument of his evil purposes and generally a mask for his errors.

The president should have a long tenure of office in order to give him a sense of personal stability, and lend continuity to the administrative system. The consciousness that an office must soon be relinquished weakens the spirit and the sense of independence. Man is naturally disinclined to expose himself to inconveniences, to the attacks and disaffections of many, for the sake of that which is temporary and uncertain. The desire to be re-elected, the fear of not being re-elected, corrupts and de-

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grades character; it breeds indecision, a yielding spirit, a preference to be harmless rather than to do good with a courageous spirit.

That the head of the executive power should continue in office for a considerable period is also essential to the stability and independence of the administrative system. A successor too often attempts to impress the public with his ability by changing the policy of his predecessors. Through the authority granted to him in the Constitution he appoints as heads of the administrative departments his trusted followers and adherents, with the result that the rapid change of headships brings about a vacillating and uncertain policy which disorders the entire administration.

A measure that would prevent the president from being reëlected would be extremely unwise. Experience is the mother of wisdom; and where is wisdom more necessary than in the ruler of a state? Should one experienced in office be compelled to relinquish it even though possessing the confidence of his fellow citizens? Should the people not be permitted to leave the efficient and deserving in the positions in which they are most needed? To change an approved leadership of the state may, in a critical moment—the outbreak of war—prove fatal. To forbid reëlection would destroy one of the strongest incentives to the performance of duty—the hope of being able to retain office as a result of efficient service—for the prospect of reward is a strong stimulus. To connect duty with interest is the best way to secure faithfulness. The will to glory, that passion which rules the most efficient and inspires them to execute far-sighted plans requiring wearisome effort, is chilled before tasks which must be transferred to another

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before they are finished. On the other hand, avarice impels to a rapid exploitation of the fleeting opportunities; and the imperious who know that even the most faithful attention to duty will not keep them in power will venture upon criminal projects.

It is a mistake to regard an executive as good if he unconditionally conforms to the trend which for the time being dominates the people or the legislative assembly. The deliberate will of the people must, it is true, form the guiding principle of its agents. And, generally speaking, the people want what is good for all; but the people may be wrong and they know that they may be wrong. They are frequently beset with parasites, with the ambitious, the greedy, the adventurous, who flatter their prejudices and sacrifice their interests. Now it is the duty of officials to keep watch over the real interests and to set themselves firmly against temporary errors and passions. The time will come when the people will thank them for their high-mindedness. Representatives sometimes imagine that they themselves are the people and impatiently wave aside all opposition. But the executive should resolutely defend its opinion against those whims of the legislative assembly which are contrary to the interests and wishes of the people. Powers were divided in order to have each branch separate and independent, not that one might become the tool of the other, else the separation would merely be nominal. The spirit of him who wields executive power will be strengthened by virtue of the fact that he sees before him a rather long tenure of office through which he may hope to prove the correctness of his measures by means of results accomplished.

The constitutional provisions concerning the executive



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veto—the right to challenge the conclusions of the legislative assembly, thereby preventing their becoming laws (though this may be overruled by a two-thirds majority of both houses)—place the president in a position to protect his constitutional rights against the encroachments of the legislature and prevent the passage of ill-considered laws, injurious to the common weal, which the agitation, haste or party spirit of the majority may bring forth. That in the general excess of legislative enactments some good laws will thus be defeated along with the bad may confidently be expected. The overwhelming public confidence in the legislature offers sufficient security against a too frequent or an inconsiderate use of the veto on the part of the executive. English experience has shown that the crown exhausted every means of influence to kill undesirable legal proposals in parliament rather than resort to the veto power. The veto of the king of England is unconditional, invalidating; that of the president of the United States is conditional: he merely refers, with his objections, a measure back to its source for reconsideration and he is sustained only if his objections are approved by not less than one-third plus one of the members of each house. Thus the lesser authority may be the most effective; it is not so disturbing and is likely to be applied more readily. The very possibility of a protest acts as a restraint upon sinister designs.

It is indispensable to the independence of executive officials that they should be provided with adequate means and that their salary should not be dependent upon the legislature. He who has the power to determine the income of another has power to control his will. If the legislature can determine the salary of the president at

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will, it may intimidate him through want or mislead him through affluence; he may appear to be independent, but he will be actually subservient. There are exceptions, but they are few. Therefore the salary of the president should be determined when he enters upon the duties of his office and it should be neither increased nor diminished during his continuance in office, nor should any other public emolument be provided.

The position of the president demands that he be elected by the people and be supported by their confidence. But the masses are ill adapted to judge correctly the peculiar characteristics and all the requirements demanded by the incumbent of this high post. A small number of select men possess in far greater measure the necessary knowledge of discernment. There is also danger that an election to the highest honor within the gift of a nation might cause general disturbance and commotion among the masses. On the other hand, care must be taken that the president does not become dependent upon the body that elects him. The desire to continue in office might dispose him to yield to importunate demands of a majority of this body rather than to obey the call of duty. The president and his reelection should depend only upon the people. Also, the arch-plagues of the republic—demagogy, intrigue, and corruption—should be prevented by every possible means. Foreign countries interested will spare no pains to get their own creatures elected to this high office. Not intriguers and demagogues, adroit in the petty arts of popularity, but real talent, should tread the way to this office.

The Constitution of the United States solves the difficulty by providing that the president shall not be elected directly, but by special electors whose one and only com-

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mission is to elect the president and the vice-president. The election of a number of electors does not arouse the commotion among the people that the election of a single individual to the highest office would call forth. It is to be hoped that the people will elect honorable, intelligent men, fitted for this task. Since they are elected only for this occasion and do not constitute a permanent body, it is not likely that they will be influenced in advance through intrigue or bribery (it takes time to corrupt) and, after the election is ended, their office and influence terminate.

The head of the executive power should be commander-in-chief of the army. The best possible safeguard against the invasion of the liberties of the republic which standing armies—though necessary—might threaten, is the constitutional provision that the support and maintenance of the army shall be in the hands of the legislature and that no appropriation of money to that use shall be for a longer term than two years. Thus the legislative assembly is in a position, and in duty bound, to consider annually whether the size of the army, demanded by the executive, is necessary or dangerous; such a consideration also has the merit of focusing popular attention upon the issues involved.

In hereditary monarchies, treaties with foreign countries are usually concluded by the king. A republic should not grant this power unconditionally to the president. The official who is elected for a term of years is exposed to the danger of corruption; riches may dazzle him or a foreign power may assist him in ambitious schemes. Neither is the house of representatives with its numerous and rapidly changing membership well adapted to conduct negotiations and to systematically pursue a consistent foreign policy; it lacks the necessary knowledge and experience. The

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secrecy necessary in the preliminary work to such a transaction, the rapid conclusions necessary to seize the opportune moment, the unity of plan, and the steadfastness required for its execution, can be better accomplished by a single individual than by an assembly. Representatives of the legislative assembly do not command the confidence and esteem of foreign nations to the extent accorded to the president of the republic. The latter also has finer sensibilities as regards national honor, and these essentials, so important to the successful conduct of foreign affairs, should not be disregarded. It was because of this that the Constitution of the United States assigned this function to the president, but in such a manner as to require the advice and consent of the smaller, more permanent, and experienced, second chamber.

A constitution is good if it creates a good administration. The excellence of an administration depends upon the ability and character of those officials who are charged with the task of carrying out the executive power in detail. How to proceed in the selection of officials is an important question. As a rule a single intelligent person is capable of making a better selection than is a body. His responsibility is more active and his sense of duty and honor is much more alert in testing the necessary qualities for office and in selecting those best qualified. He may indeed have his personal attachments, but that is equally true of every member of a body. Nothing so arouses the feelings as that which pertains to personal relations. The moment an election takes place in an assembly, love and hate of the individual and of the party become manifest; whether one party conquers or whether the result is a compromise, the real merit of the candidate is generally disregarded. The

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party does not select the best qualified candidate, but the one who has the best prospect for the greatest number of votes, or trading is resorted to—this office for our man, that for your man. For this reason the Constitution of the United States has transferred to the president the right to name his helpers; but it also provides for the approval of the senate, whose authority in this matter prevents the president from being tempted, through private considerations or local patriotism, to surround himself with favorites.

Of the three departments, the judicial is the weakest. The legislative prescribes the duties and laws of the citizens and controls the purse; the executive wields the sword and dispenses honors; but the judicial power only judges—*i.e.*, it interprets the law in individual cases. But through this very power it may nullify an unconstitutional law or an illegal act of the executive. The mere consciousness that there is an independent judiciary serves as a check.

To be uncompromising and incorruptible, a judge must be independent. To this end it is necessary that he hold his office for life and that he be removed only because he fails in his duty. He who is periodically appointed yields to him who disposes the appointment, he solicits the favor of princes, or parliaments, or of the people—from whomsoever the office is bestowed. The life tenure is also necessary for the reason that the office of judge requires knowledge that can only be obtained through a long period of study. Legal security demands comprehensive laws and consistency in legal decisions. The province of jurisprudence continually develops through new laws and judicial decisions which a conscientious judge needs to know.

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Only the prospect of a secure life tenure would induce one to pursue the necessary studies; otherwise the select, capable, and conscientious would hold aloof. A fixed income is also necessary to the independence of the judiciary. He who has power to determine one's means of support has power over his will. For this reason the Constitution of the United States provides that the salary of judges shall not be diminished during their continuance in office. This means that depreciation of money values would require a corresponding increase in salary.

In a federal state there must be, in addition to the state courts, a federal supreme court and inferior courts. It is a political axiom that for every legislative district there must be a co-terminous judicial district. Experience demonstrates that inevitably the various state courts give different interpretations to federal law. There should therefore be a federal court of the highest instance which preserves the unity of federal laws and whose decisions are binding upon the courts of every state. The federal Constitution limits the legislatures of the states. The federal judicial power is the peaceful means of maintaining these limitations and of giving validity to federal laws against the natural inclination of the state courts to prefer the laws of their own states to whose authority they owe their existence. The federal court which owes its origin and continuance to the union is free from local attachments. It is unpartisan in legal matters between the citizens of the several states, and in controversies between a state and a citizen of another state.

In controversies between the federal government and a citizen, only the federal court may judge. Also cases in which foreigners are involved belong to the federal court.

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This is necessary to the security of peace with foreign countries. Unjust decisions against foreigners, decisions which are in violation of international law, might lead to war. But war is a menace to the entire union; therefore legal matters of this kind should not be intrusted to state courts; they belong rather to federal officials. The Union which is responsible for injustice to foreign countries, must be given the opportunity of preventing it.

Finally the federal court is called upon to adjudicate those legal matters which arise between states themselves—*e.g.*, boundary disputes. The internal peace of the union could not be preserved if there were no court to deal with such controversies, for negotiations between interested parties would tend to degenerate into war.

Those who have no judge seize the sword.

## CHAPTER XIII

### BENTHAM (1748-1832)

#### INTRODUCTION

*THOUGH* Jeremy Bentham was thirty years old when Rousseau died, he was essentially a man of the same epoch and tendencies as the great Frenchman, except that the elementary rights of the English people were far more protected and safeguarded than those of the French. In spite of this difference we can safely say that the father of the English radicals and utilitarians cherished the same ideals as the great prophet of French radicalism. The general will of Rousseau and the greatest happiness of the greatest number principle of Bentham emphasize the same effort: to give a constitution to the people which by the help of popular sovereignty will satisfy all the reasonable desires of honest men. Both the French and the English reformers devoted their whole lives to the exposition and propaganda of those principles which would lead toward the realization of their supreme moral aim. Each enjoyed a world-wide reputation, each pressed his stamp on the legislation of subsequent generations. But here analogy ends and the whole career, the temperament, the social surroundings, the economic backgrounds, the character, the concrete measures advocated, their cherished books and authors, the manner and accent of their styles, differ totally and radically. In his daring



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*steadfastness to push his principles to the utmost consequences, in his faith in the ultimate goodness of human nature, in his sympathetic intuition of the forces of the universe, in the rapturous pathos of his style, the citizen of Geneva is a real emanation of the French genius. On the other hand, the spirit of Bentham embodies the best features of his nation: its virile perseverance in the pursuit of a self imposed task, its good common sense, its matter-of-fact logic, its distrust of metaphysical speculation, its skeptical attitude toward the average human nature.*

*In contrast to Rousseau's vagabondage, the career of Bentham was the ideal of a scientific life spent in an incessant scholarly activity of six to eight hours a day during his whole life amid surroundings totally exempt from material cares and political troubles, always in a congenial atmosphere, with his mind concentrated on his chief problems. From his earliest childhood the halo of the genius burned around his head. He was indeed almost a child prodigy. As a boy of seven he read in French the Telemachus where he found, as he said himself, "the foundation of my whole character; the point from which my career of life started." As a boy of thirteen he had already a thoroughgoing acquaintance with the principles of logic. At the same age he was admitted to Queens College of Oxford, where his interest was greatly aroused both in legal researches and in chemical experiments. In this famous college he had the opportunity to follow the course of the famous William Blackstone, at that time leader of English jurisprudence. But he had no taste for the historical method and no sympathy for what he regarded as an uncritical admiration of his master toward the time-honored legal institutions of his country. After getting his B.A. degree in 1763, he followed the suggestion of*



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*his father (both his grandfather and father were successful attorneys) and entered at Lincoln's Inn, taking his seat as a student in the Queen's Bench. But he had no predilection for a career at the bar, finding the legal procedure of his time antiquated and corrupt, an unscrupulous instrument of a cruel class rule. Therefore he abandoned all practical activities and devoted his energies exclusively to moral and legal investigations. In 1785 he made an extensive voyage to Italy, Constantinople, and Russia, where he had the opportunity to study very divergent political and social conditions.*

*Bentham has often been portrayed as a kind of morose visionary, but this description is entirely untrue. Though he disliked poetry, which he regarded as a "misrepresentation" of reality, he was very fond of music, of trees and flowers, and of good and cheerful society. The American minister who was his guest in 1818 described his home as having a tasteful, even romantic, environment. He was in constant intercourse with many illustrious spirits of his time, with the Mills, with the Austins, with Dumont of Geneva, a Frenchman who not only translated his chief works but even improved their literary form.*

*In this propitious, cheerful, concentrated surrounding Bentham soon became a famous man. In 1776 when he was twenty-nine years old he published anonymously his Fragment on Government, a vehement and destructive criticism of Blackstone who was at that time at the zenith of his career. His attack was unjust in many points because the intention of Blackstone was to give rather a diagnosis of actual law than advice about its reform. In spite of the one-sidedness of his treatise, Bentham's refutation of the claims of the old jurisprudence, of the historical method, and of the philosophy of Natural Rights caused a tremendous repercussion*

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*among English intellectuals and merited for its author the friendship of Lord Shelburne, the later Marquis of Lansdowne, a leading liberal statesman of the period. This friendship put him in touch with the most influential elements of London society and he found in the house of his patron the one love of his life in the person of a great lady of society, but his offer of marriage was refused.*

*His scientific reputation grew continually, and his Introduction to the Principles of Morals and Legislation, published in 1780 and in definite form in 1789, was the culmination of his scientific achievement and made the author universally known and admired throughout the world; especially in Spain, Portugal, and South America, Bentham became a sort of a new Moses of legislation. In Bentham's lifetime some forty thousand copies of his works in French were sold in Spanish America alone. In this atmosphere of fame, prestige, and glory he continued his work in a cheerful and exalted mood, helped by a big staff of secretaries and amanuenses who were charged with special researches on a vast plan directed by him personally. He constructed a long series of codes of international law, constitutional law, civil law, and criminal law. About his sixtieth year he thought that he had conquered the world and in his exuberant optimism he felt that he had discovered the key to legislation for all peoples and all forms of constitutional life. His ardor for legislative work, for the undoing of anachronistic rules, and for introducing new and propitious codes for the people on the basis of his worshipped principle, was so passionate that he himself offered his services to Czar Alexander I and to President Madison. And when his offer, though very courteously honored, was unsuccessful, he reiterated his nation-saving project both to the Czar and to the American people. Ben-*

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*tham has sometimes been called an eternally fresh and cheerful boy; and when we see his unremitting enthusiasm in framing newer and newer projects of legislation, one really feels the creative play instinct of a child.*

*But the fruitful and constructive genius of the great reformer was not exclusively restricted to his legal work, but was also busy with other great projects. For nearly a quarter of a century he was engaged in negotiations for the building of a so called "Panopticon" for the purpose of inspecting the daily life of the convicts more systematically. He was successful even in his failure, for although his scheme was eventually abandoned, he received from Parliament a recompense of 23,000 pounds. In a later period of his life he advocated schemes for cutting canals through the Isthmuses of Suez and Panama, anticipating two great world issues in the field of transportation. Approaching his seventieth year, he retired to an ancient and beautiful mansion in Somersetshire, where he spent the last years of his life continuing his busy and industrious career.*

*The great scientific and practical achievement of Bentham was his revolt against the traditional, historical school in England, thus despising all time-honored traditions, all the established prestige of the institutions of his country which he thought were opposed to the real foundation of human nature as expressed in the tendency of his great law based upon the greatest happiness of the greatest number. On the basis of this mighty principle he attacked not only his contemporary conservatives, but also the principles of the Law of Nature school which he disqualified as romantic, sentimental, and useless speculation, not perceiving that his own system of legal philosophy was only a restatement of natural law, an endeavor to measure all constitutions by the unchangeable*

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*standard of happiness, of pain and joy. He pretended to make a tabula rasa of all existing institutions and rebuilt all human rules on the basis of the balance sheet of his hedonistic philosophy. By this strenuous and vigorous effort he laid the foundation for English Utilitarianism to which he gave this very word in 1812. But he cannot be regarded as the father of the great principle underlying all his codes, for Hutcheson and Priestley and Beccaria had already announced it; and it is even contended that a passage of Machiavelli in his play, Mandragola, affirms the same principle.*

*This controversy, however, about the first formulation of the famous principle does not detract from the merit of the English philosopher, for he was the first man who not only analyzed in a keen and systematic way the real essence and meaning of the principle, but who at the same time drew very important conclusions from it as regards the most urgent jural and political problems of his epoch. He constructed marvelously elaborate and exhaustive tables to demonstrate the relative force of human motives. It may be doubted whether this complicated and somewhat too mechanical series of motives was really instrumental in his method and in the great practical result which he achieved. His real claim to immortality is rather the fact that he was the first to apply a rigorously critical method to the institutions of his time, based on a good and wholesome common sense coupled with a deep and genuine human sympathy.*

*It is curious to observe that since Machiavelli and Hobbes there has been no one who has had such a deep distrust of human nature and such a pessimistic outlook on the motives of human action as this kind and pure utilitarian in whom not a particle of national or class prejudice could be detected. He was indeed the ideal legislator in the Platonic sense, a*

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*man above parties and private interests, entirely devoted to the public weal. Perhaps the high standard of his moral constitution made him the more sensitive toward the infirmities and defects of human nature. He was convinced that the only principle on which a constitution can be built up is self-interest, and the only motives by which man can be induced to useful activity, from the point of view of the community, are pleasure and pain, coercion and fear, hope and reward. Self-sacrifice, he said, is a rarer phenomenon in human society than madness. In order to make a really good constitution for the people we must never forget that all governments, without exception, have a tendency to become oligarchical and all rulers tend to misuse public interest for their private purpose. Therefore the chief task of the legislator is to induce governments, by means of fear and reward, to abstain from the prosecution of selfish interests.*

*On the basis of these principles, which certainly disregard in a too exclusive and pessimistic manner all the noblest aspirations of the human soul, but which lamentably give a fairly true picture of the average type of the homo politicus, Bentham really succeeded in tracing a long series of very important social and political reforms which seemed to his contemporaries as the extravagances of an isolated dreamer, of a fantastical Platonist, but the most of which now belongs to the constitutional treasure of all civilized communities. He advocated the reform of the corrupt and restricted parliamentary system; he demanded a thoroughgoing municipal reform; he pleaded for the humanization of the terribly cruel, criminal law of his time and for the improvement of the prisons. He clamored for the abolition of imprisonment for debt, for the elimination of the usury laws, for the repeal of religious tests. He urged the reform of the poor law, the training of*



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*pauper children, the establishment of a vast scheme of national education. He keenly realized the importance of savings banks and friendly societies, the necessity of a code for merchant shipping, the protection of inventors. He was a propagandist for local courts, for the general registry of real property, for a comprehensive system of health legislation, for the creation of public prosecutors and of advocates for the poor. He emphasized the necessity of a thoroughgoing revision of hereditary rights, of the supervision of scientific and philanthropic foundations, proposals the importance of which are not sufficiently recognized even in our own period. Another point of extreme importance among his schemes of reform was the right of recall of public officials by the people whenever their incompetence or bad faith becomes manifest.*

*In this manner the great reformer anticipated almost all of those issues which some decades after his death became the most acute problems of constitutional and social policy. In the dark post-Napoleonic period his genius was the very torch which illuminated the path for the next generation. But not only from the point of view of practical legislation, but also in the field of theoretical inquiry his great mind is still a real source of stimulating impulse. What the German Marxists later called "ideology," meaning philosophical doctrines which intend to hide the real relations in societies based on class rule in order to mislead popular efforts (a process which was only recently emphasized as Verhüllung—a disguise of political reality), was already keenly perceived and described by the father of the utilitarian philosophy. In this connection he gives a thoroughgoing analysis of "artificial honor" which will remain one of the masterpieces of social psychology. The process of "suppression," overemphasized by the present-day psycho-analysts,*

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*was already fully appreciated by Bentham as a chief factor in untrue political doctrines. The whole psychology and mechanism of imperialism is exposed by him in a manner which by its freshness and poignancy gives one the impression of a criticism of our present-day conditions.*

*At the same time we find in his work penetratingly clear descriptions of class antagonism and political corruption. No socialist or communist, not even Karl Marx, unveiled and persecuted in such a conscious and passionate way the abuses of class rule and political exploitation as Bentham did. His logic in this field was obscured by passion when he anticipated the Bolsheviki by saying that all members of the privileged classes should be excluded from all public gatherings and that they should have only an advisory vote in political affairs because their class interest would suppress their virtue—the temptation for them would be too great.*

*The influence of Bentham on his generation and on his successors in progressive thought was a very deep and universal one, though his style is sometimes complicated, heavy, and even dull. Besides, he applied an entirely new nomenclature derived from Latin and Greek which, though it contains many fruitful innovations (for example his use, for the first time, of the words "international," "utilitarian," "codification"), makes it rather difficult for the general reader to grasp his ideas. Many of the greatest thinkers of England in the successive generation, as, for instance, David Ricardo, George Grote, John Austin, and John Stuart Mill, stood very much under the sway of the analytical genius of the radical reformer. But his influence was not restricted to the intellectual élite; many of the most influential statesmen acknowledged the depths and the fertility of his thinking. The former President Madison wrote to him that "the task to give*

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*a code to the American people could be undertaken by no hand in Europe so capable as yours."* And Talleyrand, the leading diplomatist of his epoch, said, "Plundered by everybody, he still remains a rich man."

General public opinion in many countries was quite in accord with these judgments. In 1792 he became a citizen of the French Republic by the acclamation of the National Assembly, and in 1823, when he went to Paris and entered one of the courts of appeal, the entire assembly arose and the judges invited him to sit with them on the bench. His influence was not only widely spread, but long enduring. Many of the codes of various nations show clearly the mark of his genius, and the great legal revolution in England which in 1873 led to a fusion of law and equity is clearly traceable to his legal acumen.

Naturally, as all great reformers and precursors of a new ideal, Jeremy Bentham was a sort of a maniac who envisaged only one side of reality and neglected all the others. In his passionate ardor for reform he was inclined to regard human nature as a rationalistic automaton, omitting the traditional, clumsily conservative side of the average human character. At the same time—and this is perhaps a greater fault—he was not sufficiently aware of the religious and idealistic features of the better kind of humanity, and his great antagonist, Thomas Carlyle, made, not without reason, his ironical remark that even such an unsuccessful sect as that of the Mormons had a more numerous and enthusiastic camp of followers than the great rationalist. This exaggerated intellectual attitude made him sometimes short-sighted, sometimes naïve in his political schemes. Thus, for instance, he regarded representative government almost as a panacea, and when he offered his services to the Russian Czar, Alexander I,

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*the founder of the Holy Alliance, his attitude approaches the comic. In a letter to that dignitary in 1815, he encourages him to introduce his rationalistic humanitarian code in these enthusiastic words: "Here, Sir, will indeed be a new era: the era of rational legislation; an example set to all nations—a new institution—and your Majesty the founder of it. . . ." This offer to the chief of European autocracy is much as if in our own day one of his utilitarian followers, say, a radical socialist, were to offer his services to the Duce Mussolini or to other tyrants of present-day Europe in order to induce them to introduce into their countries the latest humanitarian plans.*

*If we look over his marvelously fertile, theoretical, and practical activity and witness the absolute sincerity and clear-cut outspokenness with which the great prophet undermined all the antiquated institutions of his time by the elementary force of his logic, his common sense and his "clear, hard mind," one must be struck by the unique position which Bentham occupies in the history of human thought. All the great men whose works appear in this volume (with the exception of the cautious Montesquieu and of the American thinkers, children of a victorious revolution), were exiles or persecuted by the intolerance and bigotry of their epoch. But Bentham, who was no less radical than his great predecessors, and even more cruel and passionate in his logic, could accomplish his great work undisturbed by antagonistic interests, in the serene harmony of his private life, spared from political or ecclesiastical persecutions. This entirely new situation of such a daring and uncompromising thinker demonstrates clearly the real achievement of political freedom in the world.*

## INTRODUCTION TO A PROJECT FOR A CONSTITUTIONAL CODE

**T**HE aim of government should be the greatest happiness of all the members of the state. But what is good for one may be opposed to the happiness of many others. Unfortunately, it is impossible to enlarge indefinitely the sphere of happiness of every individual without coming in conflict with the happiness of others. Therefore, the only aim should be the greatest possible happiness of the greatest number; in a word, the common good is the right aim of government, and the proper task of a lawmaker is to discover regulations designed to bring about the greatest good to the greatest number of human beings. The just lawmaker who has equal regard for every member of the community can pursue no other aim. The determination of every point in every law, from first to last, without exception, must be directed toward the greatest good of the greatest number and must rest upon that principle. Was this ever the case?

In reality, the aim of government in all states always was and is, the greatest possible happiness of those who have the power of government in their hands. Every ruler in every act of government thought only of promoting his own happiness as far as possible. All members of the ruling class—the monarch, the nobles, the members of parliament, the clergy, the judges, were always concerned only with enlarging the sphere of their own happiness.

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The interests and the desires of the rulers were, for the most part, opposed to the welfare of the subjects, and, as they had the power in their hands, they sacrificed the happiness of the people to their special interests and to their desires. No matter how small the advantage they could obtain, or how much it would impair the happiness of all other members of society, that never entered into their consideration. If the rulers ever made a sacrifice for the welfare of the people, it was through force of necessity and against their will. If their enactments ever advanced the common weal, they did so only because in that case they could not advance their own interests without at the same time promoting the welfare of the people. The lawmakers were only concerned with discovering regulations which pleased those holders of power who could most lavishly recompense them in return. And the jurists invented the finest reasons for institutions which the selfishness of rulers created.

This is proved by the history of nations; it is grounded in human nature. Self-love subordinates all other considerations. Man is so constituted that he will always be drawn to that method of dealing which, according to his momentary opinion, promotes his welfare most without regard to the harmful consequences to others. Could, in fact, mankind otherwise endure? If each one did not care for himself but directed his attention to the care of others,—how long would the race preserve itself? Admitting that not all rulers in all cases act selfishly, it is nevertheless true of a large majority. Suffice it to say, in practice, in every political regulation, we may proceed on the assumption that everyone who participates in the exercise of political power will use it to his own advantage.

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The first maxim of political science reads thus: The greatest happiness to the greatest number must be the aim of government. The second: All rulers naturally seek their own advantage. How then, is the proper end to be obtained? How can one manage to have rulers serve the common good, the general interest? Solely by methods which will unite the interests of rulers with the general interest. That is to say, every person as well as every ruler shares in the general interest, but aside from this each has also a special interest, an unjust interest, that is opposed to the general interest. If, therefore, the effect of the special interest is prevented, there remains only the effect of the general interest. The third sentence in the theory of state reads as follows: The interests of rulers must be united with the general interest by preventing the activity of their special interests. This may be accomplished in two ways: oppose the special interest with another interest that will keep it in check; restrain the will to evil through the prospect of punishment or reward; this is one way. The other is, to take from the rulers the power of carrying out their evil will, thus preventing the evil act; thereby their will at once is restrained, for when a man knows that the attainment of an object is beyond his power, he will cease to strive for it.

From these three principles of political science it follows that when a constitution places the supreme power in the hands of a monarch who is elevated above reward and punishment, there is no means of preventing the action of his special interests or of bringing his will into conformity with the common good. According to human nature in general, it is impossible for the government of a monarch to aim at, and bring about, the greatest good to the greatest

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number. A monarchical constitution cannot be good. In an absolute monarchy the real and only aim of the whole constitution is the supreme happiness of the ruler who holds in his hands the undivided power of the state. This purpose of the constitution, in reality exclusively pursued, is, for the sake of decorum, not openly avowed, is not admitted; it is given better-sounding names, as, for example, the maintenance of order, the preservation of acquired rights, legitimacy, etc. In a moderate monarchy there is, in addition to the monarch, a small number of other rulers, subordinated to the monarch, but who limit his power; and in this case the aim of the constitution is not the happiness of the monarch alone, but also the happiness of the others who share in government and who limit one another. In reality only a representative democracy can have as its aim the greatest happiness to the greatest number—that is, can have a constitution where the magistrates are elected by all the people and may be removed by the people.

The law of the constitution designates the persons who have supreme power in order to forcibly control the conduct of all the rest. It should at once safeguard the community so that these rulers do not abuse their power and do not become the most dangerous enemies of the community.

The aims of all laws are fourfold: 1, security; 2, subsistence; 3, welfare; 4, equality.

Security is the chief aim. The chief purpose of law is to secure the person, honor, property and professional activity of all citizens (1) against foreign enemies, (2) against criminals, and (3) against oppressors. To provide a livelihood (subsistence)—that is, the quantity of goods neces-



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sary to maintain life and a condition of well-being, and an amount of goods beyond the minimum of existence—is, first of all, an individual affair; it is to be left to one's own natural initiative and to one's own labor. The state should only provide for those who are physically or spiritually helpless or without employment and for that reason are unable to provide themselves with means of subsistence. But the state can only make these provisions out of the surplus of others and at the expense of the welfare of others. For this very reason the state should promote the general well-being. Welfare is the security of subsistence against want. But as regards subsistence and welfare, the state should assume a secondary rôle, subordinate to the individual's own activity; for the state operates through means of compulsion. Even when the state grants a recompense, it creates the means for recompense through force; and force is always an evil.

The guiding principle of justice, the greatest happiness of the greatest number, requires the distribution of goods as nearly equally as possible; for the happiness of man does not increase in like measure with the increase of his possessions. The more one possesses the less will the accumulation of his property increase his happiness. It may be questioned whether a king of unlimited riches is twice as happy as the simple workman whose subsistence is secured. The greatest sum of total happiness is to be obtained through the most equal distribution of goods. The state should thus strive toward a continual approach to equality of possession, but without impairing its three other aims which are above equality, namely, security, subsistence, well-being. Equality is, in fact, the equality of these three. For the attainment of equality, therefore, no measures

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should be applied which undermine security, disturb existence and well-being, or weaken the initiative and activity of the individual. The proper measure is the control of the right of inheritance.

The state dispenses good and evil, it grants favors and imposes burdens. The sum of favors should be as large as possible; the sum of burdens as small as they can possibly be. One should never impose a burden until he has ascertained that a greater benefit will arise as a result. Extreme care should be taken to determine upon whom the burden falls and to whom the benefit accrues, whether, in benefiting the mass, the burden bears upon the great masses themselves or upon a minority or upon an individual, or whether it will oppress the majority for the benefit of an individual or of a small number. The art of government has always consisted in exacting service from the governed for the welfare of the rulers. If the benefit is on one side and the burden upon the other, one is readily inclined, for the sake of the coveted benefit which attracts the eye, to overlook the evil on the other side or to regard it as less than it really is. To place a burden upon one for the welfare of another involves rights and duties. The greatest and most important part of duties consists in abstention from acts which injure others. Through the enforcement of these duties the state creates security.

Crimes are the diseases of the body politic. The law-giver is the physician. Has a physician ever used the absurd phrase, the patient "deserves" an operation? The holders of political power, the legislators and the magistrates, have always said, the criminal "deserves" the punishment. It is because they were always, on all occasions—such is the nature of men—tyrants who did not

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hold before their eyes the greatest happiness of the greatest number, but only their own happiness, and used that absurd phrase as a pretext in order to practice the tyranny of revenge. Revenge—and that presumptuous adjustment between guilt and atonement—should never be the end of punishment. Compensation to the one injured, in so far as the nature of the injury inflicted upon him will permit, and the prevention of similar misdeeds by the criminal himself as well as by others—these are the just ends of punishment. Recompense or satisfaction implies pleasure that will counterbalance the pain; and if it is granted at the expense of the wrong-doer, he is at once punished. But satisfaction of revenge for its own sake should under no circumstances be allowed by the lawmaker. If the injuries which are occasioned by crime can be prevented in no other way than by inflicting injury upon the criminal, then punishment is an evil which prevents a still greater evil; to this extent it is good. In fact, government, taken as a whole, is an evil, and only good in the sense in which punishment is good.

Rulers are and always have been more or less conscious of sacrificing the happiness of the great masses to their special interests. They feel the danger of their position. Their evil conscience gives them no peace; their imagination exaggerates the danger. For that reason they have surrounded themselves with all kinds of bulwarks; penal laws were also their fortification; hence an excessive number of penalties. Death, torture before and after sentence, mutilating even after death, confiscation of property, including that of the wife and child. Nor did even all this suffice for security. What was to be done? Hell was placed in prospect.

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The word "pardon" is also in the dictionary of tyranny. Where there is room for pardon, there cruelty instead of justice will be practiced. The right of pardon serves to give the tyrant the opportunity of praising generosity while at the same time it veils the cruelty of the laws. Tyrants are praised in every case. If their personal interests or their whims permit the execution of a judgment, it will be said, they allow law and justice to take their course. If because of interests or whims or upon the advice of their councilors, who play their own little game, they suspend sentence, they are called generous and humane. The harsher the penalty, the greater the occasion for mercy. And for that very reason the severity of penalties is continually increased.

In the opinion of rulers, the worst crimes are those which cause them to fear that the existing constitution—however bad it may be—might be somewhat improved. Lese majesty, treason, political offenses. The penal law in a representative democracy recognizes no political crimes. There are crimes against individual persons, or there is civil war. Government officials have no more claim to the protection of their persons, honor, property, and the pursuit of their calling than any other citizen. They are not demigods. Discord among citizens may lead to war. Then there will be the fallen, the wounded, the prisoners; the dead will be honored, the wounded healed, and the prisoners cared for. The enemy is disarmed, peace is declared, the healed and the prisoners are allowed to return home. But in a democracy no jurists are employed who, after mature reflection, in the name of the law, commit cruelties.

The amount of good which a state distributes should be

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as large as possible. If the good is granted, not merely that the recipient may enjoy it, but to produce an effect upon his will so as to move him to a certain line of conduct, it is called recompense. Punishment and recompense are the means of the lawgiver to compel obedience to the laws. Penal law and the law of recompense are the props of the remaining laws; they sustain each other. To remit a penalty is recompense; to withhold a compensation is a penalty.

The founder of an institution (foundation or endowment) has similar means at his disposal. It seems as if he could only recompense; but if he does not recompense, he penalizes. An institution operates as a law, and for that reason one should keep a watchful eye upon institutions. If a lawgiver is undiscerning, a ruler may, by means of an institution, defeat the end of law; or the lawgiver may, through institutions, execute secret designs against the general welfare. The differences between institutions good for the community and injurious to the community is subtle and can be discerned only by the few. Take, for example, a scientific institution—what could be more harmless? But if the end to be attained by research or instruction is prescribed, it is bad, for one will deny his convictions to retain his salary. It will produce hypocrites. And not only that. Man's consciousness of his own immorality is a burning wound, and the natural healing process—self-deception—always sets in. Attention will be diverted from the real reasons and fixed upon the seeming reasons until a lie will be regarded as the truth, and that means intellectual and moral decline.

The finances of the state show what values are taken from the people and how they are applied. The principle

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of financial administration should be economy, though not to the point of injuring the administration. The justification of every expenditure must be determined by comparing it with a like amount of the most oppressive tax, for if the expenditure is avoided, the worst tax can be moderated by just so much. Extravagance and bad, oppressive taxes go hand in hand. It almost seems as if finance ministers must suffer from deficiency of intellect or a deficiency of feeling; either they are unable to conceive of taxes which do not cause so much harm or else they have no sense of feeling for those who suffer. Insensibility seems to attach itself to office. If a finance minister says he is in sympathy with the people, it should be taken about as seriously as if a general had said he has sympathy for the soldiers or for the inhabitants of a devastated city. The people are deprived of the fruits of their labor in order to pay for useless offices and to reward, beyond measure, public services. An economical financial administration is only possible in a representative democracy. A monarchy must be extravagant. "Raise the splendor of the crown to preserve the dignity of the throne" is but another term for extravagance which only serves to satisfy the insatiable greed of rulers and their favorites and tools without thereby making them happier. Another kind of extravagance is called "the preservation of the power of defense." The greatest part of this expense could be spared if the rulers did not need the standing army for their constant offensive war against the people. Absolute monarchies may limit the extravagance of court and army and save in other respects; in the so-called "moderate" monarchy, extravagance knows no bounds. To the extravagances of the court and the army is added the corruption

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of the alleged popular representatives. Their mission should be to protect the people against the king and the large number of rich and powerful that rule with him, and to restrain them; but corruption so operates that, instead of being restrained, they are supporters of iniquity. The popular representatives and their entire following are bribed; the circle of corruption becomes continually larger. Bribery and the corrupt squandering of the people's property take place under the heads of ability, merit, piety—in a word, under the guise of rewarding virtue, although, without doubt, those who give bribes, as well as those who take them, are baser by far than the great mass of people. But through corruption the people also become blinded, so that they honestly think that only virtue is rewarded. And then, the greatest extravagance of all—war! The absolute monarch will conduct war as soon as he regards his power strong enough to extend his sphere. The moderate monarchy is, for the most trivial reason, prepared for war, because the wastefulness which war entails generally helps the corruption fund. War creates new offices, military and civil—*e.g.*, finance offices to levy new taxes, to execute war loans, etc. New offices are new objects for corruption, breeding corrupt submissiveness. The same is true of colonies which arise out of war and beget new wars. The people have always lost through war and colonies.

A representative democracy—in which the supreme power is in the people and where rulers really represent the people who elect and reject them—will scarcely engage in war. Such a state understands that the speculation to conduct war at the expense of the enemy is false, that the liabilities fall due quickly and surely and in the end they

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are always greater than the assets. Excitement may kindle war; but to carry it on, hatred of others must be greater than egoism; and that, in the large masses and in the long run, is unthinkable.

Where only a part of the population is in possession of arms, and knows how to use them, there can be no equal security. When a professional army is necessary it should be so small that the armed power of the rest of the population, including those able to bear arms, should, by reason of their greater number, decidedly overbalance the more experienced professional soldiers. The largest possible militia, the smallest possible army—that is the requisite for a well-ordered security as well as for economy.

He who arranges a constitution must also have regard for judicial proceedings. Expensive, involved, and protracted procedure has always prevented the workers, who have neither time nor money to spare, from obtaining their rights, and it has forced them to endure oppression. It has operated as a premium for oppressors and has been a profit for jurists. The lawgiver should be most interested in the legal affairs of the great masses because they are of the greatest importance, but hitherto both lawgiver and jurist have taken little interest in them.

Jury court and justice court serve the purpose of operating against the special interests of the professional judge and they constitute, as it were, a deputation of public opinion to control the judges.

The influence of public opinion in politics is evident. It is a voluntary court composed of the entire membership of the community. This court does much for the moral discipline of the rulers and is a powerful check to keep them in the path of the common welfare. Every time a



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ruler or an official is guilty of official misconduct, there arises, sooner or later, in a small or a large circle of the subjects, a disaffection. Among the disaffected there will be someone who will know how to relate their trouble back to the official misconduct and he will make it known to the rest. Even though public opinion may often be wrong—the great masses are, of course, ignorant and indiscriminating—the fear of it holds the ruling gang in check. Of course it is not wholly the opinion of others that affects rulers, but also the anxiety concerning their own interest, namely, the fear that the opinion of the subjects might express itself in acts of retribution. Likewise public opinion operates through the prospect of reward.

A representative democracy which seeks the greatest happiness of the greatest number should employ public opinion—that powerful leaven of a good government—to the best possible advantage, since democracy should do everything possible to make public opinion true and active.

Directions should be posted in every local office to remind the official and the public that the official should regard himself as a servant of the people who have dealings with him rather than as their superior or their lord; that power is intrusted to him for the purpose of executing his duties, not to gratify his vanity or pander to his pride, to the injury of those who support him.

Public opinion is a terror to those rulers who do not seek the greatest good for the greatest number and do everything possible through secrecy, deceit, bribery, and power to lead public opinion astray.

In the court of public opinion the verdict of each member will be determined by his own interests. Each will approve or disapprove acts of government, according to

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whether or not those acts coincide with his interests; or better, with what he regards as his interests, or what for the moment appears as his most important interests. This does not imply mere selfishness, but it includes social sympathies and antipathies. Thus the court of public opinion consists of two parts, one democratic, and the other aristocratic. The first includes the great mass of laboring people, the majority. Their interests correspond with the greatest happiness for the greatest number. Their judgment—if they know their interests rightly—measured by the principle of the greatest happiness for the greatest number, will, therefore, be a right judgment. They will approve those transactions that will promote the common welfare and disapprove those that injure it. The aristocratic group will consist of the rulers, the powerful, the rich and esteemed, together with their adherents whose interests are bound up with their interests. The interests of this class are for the most part opposed to the welfare of the majority, to the greatest happiness for the greatest number, and for that reason their judgment, rendered in the court of public opinion and measured by the principle of the greatest happiness for the greatest number, will be a false judgment; that which is injurious to the common welfare, but promotes their class interests, will be regarded by them as right; that which is useful to the general community but injurious to their class interests, they will regard as wrong. It is to the advantage of the ruling class to be able to seize the person and property of the governed with impunity; yes, under the protection of law. Therein consist their privileges, their prerogatives—the right of a small crowd to be able to inflict evil upon the great masses. Every member of the aristocratic group defends these

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prerogatives. If those belonging to the ruling class fight against their own class interests, one should be cautious about believing them. Those who have genuine sympathy with the oppressed masses are rare. Aristocratic opposition is generally made up of those who attack the holders of power that they themselves may get control; they denounce existing corruption before the bar of public opinion only that they themselves may profit by corruption.

Since those who belong to the ruling class will, in the court of public opinion, decide against the general interest, they should be excluded from every assembly in which public opinion is represented, or admitted only as advisers without the right to vote. Only their knowledge, their intellectual gifts, can be of any value to the general community; morally they are of less value than the average individual taken from the masses. Their class interest will suppress their virtue; temptation in their position is too great.

The greatest danger of creating a false public opinion arises from the fact that the uneducated masses get their viewpoint, their conceptions, their very language, from the ruling classes; but the latter form their opinions and their expressions in accordance with their interests. Now if the masses accept these views and use these expressions, they unconsciously advance aristocratic interests. They do not understand how, under this intellectual yoke, they are led to mischief. For example, the judgment of the rich and prominent is standard for things that are fine, tasteful, and decent; but to them the laborer is uncouth and disagreeable. The youth, and those among the masses who strive to rise, are very much inclined to adapt themselves to the taste and the standard of judgment of the aristocratic

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classes. One must guard against the application of such a standard and always hold fast to the one correct standard—that course of action which will bring the greatest happiness to the greatest number.

Moral responsibility of rulers is also the work of public opinion. Law can only comprehend the graver misdeeds whose evil consequences are tangible, definite, and important enough to justify the penalty. The court of public opinion extends to misdeeds and abuses of all kinds; it prevents and heals injuries which would otherwise become unspeakable; it helps those whose need finds no advocate and moves no judge. Against crimes which the highest officials themselves commit or favor, there is no law, no judge, no recourse other than public opinion. The subjects of a state are collectively included in public opinion. But the power of rulers depends primarily upon the habit of obedience of the subjects. Public opinion may take such a turn that this habit of obedience ceases, and thereby the power—that is, the rule of those who govern—will also cease. For this reason the thought of public opinion is painful and hateful to every soul that rules. A government which seeks the happiness of a single individual or of a small crowd will do everything possible to weaken the effectiveness of public opinion, to work against it and, if possible, destroy it. A constitution which aims to bring about the greatest happiness to the greatest number will endeavor to strengthen public opinion as much as possible. There is no better index to the morality of those who govern than their measures for or against the effectiveness of public opinion. That the court of public opinion may become effective, an evil deed, together with its proof, must be made known and its injury to the common welfare must

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be explained. Every official who in his activity sacrifices the common welfare to his own selfishness will suppress the facts and criticism of his official conduct with all the power at his disposal, but in so doing he himself puts up the sign that marks him as an enemy of the common welfare.

The press is the broad road to the court of public opinion, and he who attempts to obstruct this road proclaims himself thereby the enemy of mankind. Against the wholesome effect of the press, rulers fight with two weapons—the blockade and corruption. They prevent true and spread false reports, they hide truth and employ falsehood, in order to mislead the court of public opinion and keep from those they most need the true state of affairs. The aim is to have oppression and exploitation given a free hand and to have the cry of misery die without effect. Every attack upon the freedom and integrity of the press is a declaration of war against the well-being of all mankind, not merely of one nation, for truth will thus be withheld from all mankind and thereby oppression promoted everywhere. Every suspicion is justified against a government which limits the freedom of the press, for that is the method employed by oppressors. One who is free from evil intentions has no need of this precaution. He who would prevent the abuse of the press should not do it in such a manner as to prevent its doing those good deeds which are plainly indispensable to the court of public opinion. Government may suppress press reports, but it cannot prevent their circulation orally, distorted and exaggerated through a vindictive disposition which is the natural consequence of oppression.

A bad government may be defined in two words: oppression and exploitation. Exploitation is oppression for the

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purpose of acquiring something valuable at the expense of the oppressed, to acquire property and to become rich. Even oppression which does not proceed upon the basis of direct advantage, nevertheless aims at supporting, strengthening, and securing exploitation—*e.g.*, where the exploited are prevented through penalties from publicly complaining of their need or from communicating with one another. Every constitution, with the exception of the democratic, aims to have the subjects delivered without defense to the rulers for the purpose of oppression and exploitation by the easiest, most secure, and unrestricted methods and without being subject to punishment. Every government, except the democratic, aims at the well-being of the rulers for whom it sacrifices the welfare of the people and hence continually exercises oppression in every degree. Only a democratic constitution can have as its end the greatest happiness for the greatest number, and it alone can attain this end. If, however, the state is to be large enough to be able to protect itself against external attacks, democracy can only endure in a representative form. A democratic constitution aims to prevent citizens from being oppressed and exploited either by government officials or by other enemies within or without.

An act, either good or bad, proceeds from will and power. Rulers must be deprived both of the will to do evil and of the power to do evil. The will of every public official is always in conflict with two opposing interests—his part in the general interest and his personal, special interest. The former is a small share in a concern with millions of participants who are all too lightly overborne by the special interest. There must be another counterpoise to the special interest, namely, legal and moral responsibility.

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Legal penalties are, it is true, also in the hands of the rulers, but when the penal law is in the hands of another official, it operates as a restraint. Even an absolute monarch may have obstacles placed in his way: if for authentication of his signature the counter-signature of an official is necessary, that in itself is a restraint. Restraints of all kinds are necessary contrivances in a political machine.

As regards power, this is the great problem of a constitution: to intrust rulers with full power that they may bring about the good, the right end of government, but at the same time to take from them the power to do evil. The extent of governmental power is determined by three component factors: duration, extension, and intensity. Duration—*i.e.*, the time for which government officials are appointed. Extension—*i.e.*, the number of persons and the number and value of objects over which their power extends. Intensity signifies the means at their disposal. Pleasure and pain are the means of every government, the good as well as the bad. Only through pleasure and pain, which are the ends of all human transactions, can mankind be moved; through force and fear, through hope and reward. Physical force is the original means of government out of which the others, fear and reward, arise. A bad government is indicated by an excessive use of both, of the painful as well as of the pleasant means of government: excessive force, terror, unusual punishment, extravagant reward, the former to the opponents, the latter to the helpers of government. Lavishness in good and evil is evidence of the wickedness of government. A good government is moderate in both, for compulsion and fear are in themselves evil, and that which is applied to one must be taken from the other.

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The power of government should be restricted as much as possible in all three directions—intensity, extension, and duration. As regards the highest functionaries it is, however, hardly possible to restrict intensity and extension without at the same time limiting the power to do good. The period of office may also here be shortened without injury; and the power of subordinate officials may be curtailed on all sides.

However limited the authority of an official may be, if he is secure in his position or holds it for life or on good behavior, he is, so to speak, in a fortress from which he may gradually increase his power incomparably and do much harm in his apparently narrow field of activity. On the other hand, the greatest amount of power may be confidently intrusted for a short period, as is shown in the example of the Roman dictator.

The means of reward is money and money's worth. Government must dispose concerning money values in order to compensate services; but a bad government uses this means far beyond the necessary and useful measure, and that means exploitation of the workers. It enriches itself and its adherents and bribes its opponents. Among the compensations are positions with a salary and fictitious honors. In monarchies the right to appoint to the highest offices is ordinarily granted to the monarch. This necessarily brings about a general subjection to the monarch; and as his interests run directly counter to the general good, this subjection causes corruption; it has as a consequence the abandonment of the common welfare. There arises a systematic corruption, based upon the system of government, which permeates the entire constitution and which to some extent operates unconsciously. If a candi-



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date bribes a voter it is individual corruption on the part of both. But there must be offices; and their large incomes are accepted as a matter of course. A representative of the people will say to himself: Why should not I or my adherent hold this office? He will support the policy of the monarch—suppression and exploitation. And behold, the king is good and gracious—the one concerned retains the office. Then it will become a duty and an obligation to show his gratitude to the king. It is remarkable with what ease corruption is carried on! To compel obedience through force and terror requires great pains, but one may corrupt without the least exertion, without troubling one's head, without thinking about it. It is sufficient that the ruler, who is a slave to his own greed, merely satisfies the avarice of those about him. He rewards one of his favorites; thereby he has at once corrupted a hundred others who, expecting a similar reward, are submissive. In order to understand the web of corruption, one must observe to what power a ruler may attain, with what servitude he may legally surround himself, to permit others to obtain public money and money values. The crowd swarms around the few whom he cares for and who are in his service in expectation of similar reward without ever having their hopes realized; hope is their reward. The monarch appoints one who has the authority to appoint twenty other officials; each one of these again has the right to fill twenty positions, and to each of these officials there clings a swarm of hopefuls. Thus are formed the successive links in the chain of dependence, of submissiveness, of corruption; and the good things concerning which the monarch disposes are so numerous that there is something for each—money for the purse of one, honor for the pride of

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another. In all these things the monarch is free from criticism; he gives the impression of always giving unselfishly. In general the monarch can scarcely do anything that does not receive praise. If he indulges in luxury, it will be said he promotes art, trade, and industry, or he holds aloft the splendor of the crown which without question is dearest to every true-hearted citizen. His generosity and beneficence will be praised regardless of the fact that it is exercised at the expense of the taxpayer.

The chief agent of corruption in the moderate monarchy is the so-called popular representation, without whose consent it would be impossible for the monarch to satisfy his greed, so injurious to the community; but with their consent he is uncontrolled. It is to the interest of the king to have the number of offices that he disposes as large as possible. On the other hand, the interests of the people demand—and the duty of the popular representatives should also demand—that the number of offices should be as small as possible. But generally the king and the popular representatives conclude a pact; the offices are divided between the parties and the common welfare is sacrificed. In popular representations there are always two parties: the one is in possession, or at least in expectancy, of benefits that may be obtained from this position; the other is without possession and without prospect of the same. The latter naturally strives to dislodge the former from its position and occupy it for themselves. Both are equally dependent upon the monarch who distributes the spoils; and the temptation for every member is so great that his steadfastness can in nowise be depended upon. Corruption proceeds farther. The popular representatives permit an undertaking in which they or their adherents are

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interested, a monopoly to the injury of the general community; they allow a minister to bring his inefficient son into office, and so forth. Thus the entire system of government is corrupted through and through. It is certain that the highest officeholders, who pocket the greatest profits from this system of corruption, consciously maintain it intact. Every case of corruption not only accrues to those parties who are directly interested, but also to the great profiteers who harvest the fruits of the entire system. The only redress is a fundamental change in the constitution. Laws which are ostensibly passed to check corruption—*e.g.*, those which prevent a member of the legislature from holding any other office, from engaging in business connected with the state, etc., are merely passed to deceive the people, to make them believe that the government is honestly attempting to prevent corruption, and, when the people see and observe that corruption does not decrease, they satisfy themselves with the belief that it is simply impossible to suppress the evil or put an end to exploitation and that God thus wills it, instead of recognizing the true and only remedy—the change of the entire system of government and the establishment of a representative democracy.

Those naturally allied to corruption in the body politic are made up of all strata of the aristocratic classes who in consequence of their position have special interests which are opposed to the common welfare. In fact, corruption means the sacrifice of the common welfare to the favor of special interests. Every advantage, privilege, or favor which the government grants to this small crowd, over the great mass of people, buys its support for the purpose of oppressing and exploiting the masses.

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Every good may serve to reward and corrupt: money, power, artificial honors, all kinds of advantages, such as a cheaper or safer purchase, admission to places denied to others, chairmanships, alleviation from service, satisfaction of revenge at the cost of justice, remission of penalties. If one grants a good and retains at the same time the right to take it back arbitrarily after it has been granted, the corruptive power of reward will be strengthened by threatening punishment. The pain which is caused by a loss is much stronger than the pleasure in an equally large gain. Through granting revokable values there arises a permanent relation of dependence. Therefore the right of appointing and removing officials is the greatest means of corruption in the hands of a monarch.

Bribery may be committed in advance or it may follow later. In the latter case it is the hope of reward; the idea of gratification is the motive for the rejectable act. For example, rulers wish to undertake a war in order to enrich themselves; the members of a popular representation give their consent in the hope that they or their adherents will receive lucrative offices. Where bribery is given in advance, gratitude (sympathy with the benefactor) or fear of being regarded as ungrateful or unfaithful is the motive of the misdeed. This is an illustration of how the court of public opinion is led astray by the ruling class. For neither gratitude nor faithfulness can justify an act detrimental to the common welfare. That one should recompense benefactions and fulfill pledges of faith undertaken are fundamental principles without which society could not endure, but if employed without exception, they would disturb society. An evil deed does not become good by reason of the fact that it was committed out of gratitude or of a

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pledge of honor. The rulers have abused gratitude and faithfulness for the purpose of securing their special interests against the common good and to permit the execution of ruthless oppression and exploitation. Pledges which are injurious to the common welfare must be broken. The result will be that such pledges will not be stipulated, and that is as it should be.

The danger of corruption exists in every constitution. No law can entirely prevent an official from abandoning the common good for his own selfish purposes; such is the nature of corruption. The entire body of officials is constantly exposed to the danger to bribe and be bribed. A body politic is inclined to corruption; corruption is the rust of the governmental machine. But in a representative democracy it is possible to so restrict corruption that it does not have a national, decisive significance. There the people have the supreme power, the power of selecting and rejecting the rulers and officials. The power of appointing and removing is, in the hands of the monarch, the surest means of corruption; in the hands of the people, it is the strongest safeguard against oppression and exploitation. But it must be strengthened through still other means. For example: the money and power at the disposal of rulers, which they may employ as a means of corruption, and also their income, should be limited as much as possible. Offices should only be conferred on the basis of proof and evidence which demonstrate fitness. Transactions which testify for and against the capacity of an official should be made public. Everything should be summoned by which the legal and moral responsibility of rulers may be realized.

Corruption, the sacrifice of the common welfare to the selfishness of rulers, must be hidden from the people.

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Deception, the blinding of the people, goes hand in hand with corruption, that their oppressors may appear as their protectors, their protectors as their relentless enemies; that the people may regard the selfish aims of their enemies as the right aims of government and reconcile themselves with oppression and exploitation. Corruption is one pillar, deception the other, of a malignant government. The greater the corruption, the bolder will the disinterestedness of rulers and the sincerity of their intentions be proclaimed; it will be said that they not only leave their own interest in the background, but that they are entirely forgetful of themselves. This will be continually dinged into the people. From early childhood the subjects are trained to look upon rulers with the highest regard and never to doubt their integrity. They believe the assertion about the disinterestedness of government, an assertion which is directly contrary to human nature in general. For to all self is everything, and all other things seem as next to nothing. Examples of disinterestedness are rarer than insanity, and assertions about rulers possessing this quality should be rejected by the people as ridiculous, insulting, and presumptuous. But the popular sense is dulled by this ever-recurring lie. Rulers are so cautious that among themselves even political opponents will concede a disinterestedness to their adversaries so that no doubt may arise in the popular mind. In all writings about the public life, in histories, in biographies, in necrologies, the lie spreads; in part consciously, in part through imitation, there is everywhere a glowing picture sketched of the character of those who have the good fortune of belonging to the ruling class. The press, much less concerned about the truth than about the favor of a certain class of readers,

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repeats the flattery a thousandfold. Of the dead, only good!—that is, falsify history that the people may gain no knowledge from it. Honor, which thus accrues to the corrupt oppressors, spurs them and others to proceed in their method of conduct.

Instead of hypocritically despising selfishness, the first step in the establishment of a good constitution is to admit its natural necessity. No system of government can be established upon the theory that rulers are unselfish. In the best possible constitution, the thing desired is not that disinterested persons govern, but those whose interests coincide with general interests, and that they shall nowhere find support in pursuing a special interest, thereby promoting through their own interest the common need. "Put least confidence in rulers!"—that is the motto for a good constitution; but that is by no means equivalent to saying "the least power." Protection does not consist in the impotence of rulers—for their weakness would indeed be a perverted means of protection—but it consists in their dependence upon the popular will and in complete accountability to popular control.

Another lie, which is likewise continually proclaimed, is the one about the political capacity of the ruling class and of the incapacity of the people. The rulers are wise. The people are not even fit to elect properly their representatives. They are told that they will go to certain destruction if they do not permit the ruling class to determine their own destiny. One would be indignant at this estimate if one were not accustomed to listen to the holders of power unopposed. The most dangerous among the rulers are those who themselves believe in this lie, who, through a divine call, afflict the people.

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The splendor with which the rulers surround themselves serves to blind the people: crown, throne, palace—as if the splendor came from within. The very manner of speech is deceptive, as when one speaks of the “crown” instead of saying, “the king wishes it,” or, “the king needs it.” Likewise one speaks of the *church* instead of the *priest*, the *law* instead of the *judge* and *advocate*; and instead of saying the *rich*, one speaks of *possession* and *property*. The purpose and consequence of these terms are to mislead the people that they may never identify the authors of their pain in this or that person, and that their resentment may be diverted to phantoms which stimulate the imagination and weaken the judgment and energy through accustomed reverence. Thus out of the interests of the rich there has been fashioned the sanctuary of property. Unfortunately, the protection of property has been decidedly affirmed as the only aim of government, as if man had been created for property.

One means of corruption and, at the same time, of blinding the people, is artificial honor: distinctions, titles, decorations. They are rewards instead of money. Through them the government buys service which is not sold for money. They are artificial honors, for they do not depend upon character or accomplishment, but the government bestows them through visible and audible symbols: titles, stars, bands, medallions. They create regard for persons who do not deserve regard; for regard signifies power and service which are freely granted to those who are esteemed. But now regard and eagerness to serve, which the people bestow upon those who are truly noble, are deceitfully conferred upon those who are unworthy. The members of government, and their associates in oppression and ex-



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ploitation, are regarded by the deluded people as virtuous men who have served the general welfare.

Artificial honor is positively an objectionable means of government, the conferring of which should be taken out of the hands of rulers. As a reward for service it is ill adapted and deceitful, for it is bestowed without publicly establishing the deserving act. It is like imposing a penalty without a judicial process. The best means of rewarding service and of inspiring to new effort is a public, accurate, and complete statement of the act. There should be a register of service, a book of honor, in which distinguished service to the commonwealth should be recorded after a careful, judicial determination of the essential facts, and then made public. As every expenditure from the public treasury must be justified by vouchers, so too should the esteem and affection of the people not be lavished without warrant. That is also a popular asset.

Say nothing about hereditary honors! Hundreds of years ago there was someone who exercised oppression, extortion, and murder on a large scale, and his descendant, boastful of these services, raises a claim to general esteem. It is said, family honor spurs to venerableness. He who believes this does not know the mainspring of human action. The thing that urges one to make himself deserving of his fellow-men is his dependence upon them for their good opinion, directed by their good wishes; for that reason he is concerned about their esteem. But he who inherits this esteem has no need of acquiring it through his own service. On the contrary, one who belongs to a class from birth, whose interests are opposed to the greatest happiness for the greatest number, is a born enemy of the people's welfare.

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Artificial honor only works evil; it causes harm by the very fact that it creates inequality. Inequality of power is unavoidable in a state; inequality of property as an incentive to production may be necessary, but the evil of inequality which artificial honor creates cannot be justified through the redeeming act of a remedy. Artificial honor works demoralization; it nourishes deceivers; it destroys the character of those who bestow the distinction, for they see that deceit succeeds; and it will also destroy those who accept the distinction since they can obtain honor without virtue. Every injustice is contagious, incites new wrongs and promotes injustice in all forms. Artificial honor encourages subjection to those who have the power to confer it; as the fountain of honor they will be honored all the more. Everyone receiving a distinction will become a complaisant tool of the government for the purpose of advancing its special interest as opposed to the common welfare. In feeling and opinion he will become an adherent of the ruling class and in the court of public opinion he will strengthen the aristocratic tendencies. And as title without ability will create disrespect instead of esteem, rank will become an incentive to exploitation.

To govern means to command. As a result of government the people of necessity divide into two classes—those who command and those who obey; but this does not mean that the one class always should command and the other always should obey. It may well be possible that he who commands today may be the subject tomorrow. The greatest happiness for the greatest number demands that the number of those who govern shall be as small as possible, for governmental activity withdraws from productive labor. The activity of the greatest possible number should

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be so directed as to provide for the maintenance of the necessities of life. How then should the rulers be selected? The people should elect them, and that for a short period, for only then will government really concern itself with the greatest happiness for the greatest number. The people as a whole cannot order all governmental affairs, but they can from time to time, by a vote, decide that citizens shall govern. As man seeks to promote his own happiness in everything he does, each elector will vote for those whom, he hopes, will do most to promote his welfare. If not all of the people, but only a small number, or a single individual, decide who shall govern, then, according to human nature, those will be elected who do not promote the common good, but the happiness of the qualified electors, regardless of what is best for the community. To be sure, rulers will seek above all else their own welfare, but if they know that they may soon be put out of office and called to account, they will guard against sacrificing the common welfare to their own selfishness.

The right to elect and remove officials is the highest law of sovereignty. The people themselves cannot act as a legislature and an administration and a court—that would be a constitution only in name; in reality it would be anarchy. These affairs must be taken care of through representatives; but sovereignty, the ordering and removing of officials, must be exercised by the governed themselves—*i.e.*, by the largest possible number—if the aim of government is to be the greatest good for the greatest number. The people must elect a part of their rulers directly, namely, the lawmakers; the others must be commissioned through their elected representatives, and finally the people must preserve the right of removal of all officials.

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The whole people are far better adapted to exercise sovereignty than any part of the people or than any individual; they possess in a far higher degree the moral, intellectual, and active qualification for sovereignty than a monarch or an aristocracy, a body politic made up of a monarch, an aristocracy and the people, or their representatives. For the most important is the moral qualification, that is, the will to the general good of the community, to the greatest happiness for the greatest number. He who does not have this will, however much knowledge, mental acumen, and energy he may possess, is not fit to be sovereign, for he would employ his ability against the general welfare and for his own use, since he has the power to do so. In fact, the stronger his intellect and his energy, the more dangerous does he become. The moral qualifications of the people to elect their representatives and their officials implies their capacity to elect morally qualified representatives. Not merely because the people are urged to elect such; their zeal also stimulates the officials as well as those seeking office, to stand the test. The elector can only pursue with success such an interest as he has in common with others; and he who wishes to be elected can commend himself in no other way than that of being eager to serve the best interests of the community—and this he will best demonstrate by evidence that he is actually concerned about it. The people may go wrong in an election, they may be deceived in some, or even in a majority of those elected; but the chances are in nowise better, but much worse, if the rulers are not elected by the people. No one person, nor any number of persons, is more likely to exercise the right of election and the right of removal for the common interest than the people themselves. Their

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knowledge, power of judgment and of will—if they are not oppressed by a bad government—steadily increase and they always tend to become more capable of exercising sovereign power. On the other hand, the more experienced a monarch becomes, the more will he execute his selfish ends against the general welfare. It is true that every elector would gladly do the same thing, but he lacks the power to do so. The monarch, on the other hand, has the power. The individual citizen feels himself restrained through legal and moral accountability. A king needs to fear neither the law nor the court of public opinion. Legally he is not responsible—and he has sufficient means at his disposal to influence public opinion.

It is also true that if the royal crown were allotted to one among the whole people, even then a good government would be more probable than in an hereditary monarchy where one is born and reared to kingship. The majority of the lots would fall to one among the mass of the poor and thus there would be the likelihood that an accident would elevate one whose interests hitherto had coincided with the greatest number. It is true that upon the throne his spirit would change, his moral sense would decrease, but it would not sink to that depth upon which the morality of one born to kingship rests. The sympathy, of the one fortunate enough to be crowned, with the sorrows of the great masses would indeed be narrowed, but yet there would always remain with him an intelligent sense and appreciation of the feelings of his former associates in misery. But one born to kingship cannot understand these miseries. Rulers only have sympathy for the few of their kind, whereas for the laboring folk who support them they have nothing but hate. It is said that the interest of the king

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demands the welfare of the people. That is not true—it is only so in the sense in which pastures and fat sheep are to the interest of the wolf. Yes, it is to the interest of the king, and the small crowd that rules with him, that general well-being increases, but only under the condition that their booty, which consists of taxes, duties, tithes, and dues, shall not be diminished. But general well-being cannot increase so long as exploitation continues.

However difficult it may be for an elector in a representative democracy to vote intelligently, there is much less likelihood that the monarch will make a wise choice. He will succumb to the suggestions of his environment, which consist of flatterers and hypocrites, all of whom will attempt to deceive and exploit him, while the electors of a representative democracy can get their information directly. It is often said that the people are not yet ready for democracy and that in the meantime, during the transition, a mixed constitution is necessary: that is, a monarchy with a bicameral legislature, and that the people should decide only if the king and the two houses cannot agree; but however limited the prospects of good government under a democratic constitution may be, they are much more limited under this kind of a mixed constitution, for it is much more likely that the king and the two chambers will conclude a compromise at the expense of the people than that they will abrogate the least of their power in favor of the people, for it is a principle of human nature that every man is guided by self-interest. One may become enthused in behalf of the common welfare—yes, for a moment, perhaps, impelled by a powerful speech—but in the long run only self-interest controls. And the things that move the ordinary man to sacrifice his own welfare for

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the general welfare, such as participation in the fortune of the masses, the desire for fame, the joyous consciousness of power, or the satisfaction of having contributed something to the advancement of mankind—these motives have no place, and are not active, in the soul of the ruler.

A representative democracy, in which legislation and the execution of the laws are to be directed toward the good of the community, should be organized as follows:

The people should elect the lawmakers. These should elect the leader of the executive power, which should be in the hands of a single person. He should be authorized to name all of the administrative officials, and also to remove them. The legislative assembly should have the right to dismiss the leader of the administration as well as all officials subordinated to him. The people should have the right to dismiss all public officials, but they should elect new legislators only. The vacant post of administrative chief should be filled by the legislative assembly and the other vacant administrative positions, by the chief executive.

In this arrangement there is embodied a protective contrivance against corruption as well as against the abuse of the right of dismissal. If the people had no right to remove the leader of the executive power, a corrupt union would soon be formed between the executive and the legislature. If the executive is elected, removed, called to account, and can in various ways be harassed by the legislature, it is quite natural that he will not care to incur their displeasure. Let the legislature create offices carrying with them financial advantages and great power and place them at the disposal of the administrative chief; immediately and secretly a pact is formed. The legislature will

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say, We place at your disposal the means of power, but in return we expect you to give us our share. The legislature delivers to the administrative chief offices at wholesale; he delivers them to individual members of the legislature; and if these offices cannot be delivered to the legislators themselves, they will be turned over to their adherents and in this manner bribery will be even multiplied; to prevent it will be simply impossible. There is no way of knowing what secret attachment or friendship may be formed, for it is not confined to one's relatives. Nor is it practicable to elect one to the legislature and thereby exclude all his relatives from public service. Corruption can only be prevented—not entirely, but considerably—if the people have the power of dismissal. If the people see the necessity of removing an administrative official, they will at once rebuke a legislative assembly which has neglected its duty; and if the people cannot elect an official in place of the one dismissed, but must leave the dismissal to the leader of the administration, there need be no fear that a popular party leader would exclude a functionary from office merely for the sake of putting another in his position, for he would have no power to do the latter. Thus will the abuse of the right of dismissal be prevented.

The right of dismissal is exercised in the simplest manner when all the officials are appointed for a definite, short period, for one who is not reelected is thereby dismissed. This indirect method is milder, and yet more effective than the eventual, direct penal procedure.

The popular right of election and the right of dismissal together form the constituent power.

It is impossible for practical people to busy themselves



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with lawmaking. If the law should provide that all could participate, only a small part could meet for that purpose. It would be a dishonest constitution in which apparently all, but in reality only a select few of the minority, would do the work. Representatives should be elected for one year on the basis of an equal franchise at a general, direct, and secret election.

Those who are too young to manage their affairs have no claim to vote concerning the affairs of others; but this is merely a limitation of time. Women should share the right to vote equally with men, for suffrage, participation in sovereignty, in the constituent power, is a means of securing and promoting happiness, and the happiness of women is certainly of no less significance than the happiness of men—there is need rather of greater care because of the special burdens, anxieties, and infirmities which are peculiar to the female sex. The political outlawry of women had its origin in the fact that political power was the result of military power and this was in the hands of men. To deny to women political capacity is thoroughly unsound. In countries where no political rights whatever were granted to women, there have nevertheless been women who have held the highest political power—queen rulers; and, indeed, their government need not fear comparison. One strains at a gnat and swallows a camel. It is especially to be hoped that woman suffrage will bring about a wholesome regulation of the relations between the sexes.

The happiness of the poorest is quite as important an element in the general happiness as the happiness of the rich, and for that reason no one should be denied the right to vote on account of poverty, since it may be the means of protecting and improving one's fortune.

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If voting is public there will be many who, because of fear of losing friends, suffering injury, or being compelled to endure persecution, will not vote at all or who will vote for those in whom they have no confidence and possibly even for those against whom they entertain distrust. Therefore, secret voting is necessary.

Equality of suffrage means that each vote shall have, as nearly as possible, equal value. Therefore there should be no great difference in the number of electors in each election district, else a vote in the more populous districts will have less value than in the less populous. That would be unjust. The diminished value of a vote may even reach the vanishing point through difficulties in voting—*e.g.*, if the voting place is far removed from the residence of the voter, the voter may feel that it is not worth the trouble of participating in the election. On the other hand, in a small election district, where there are but few voters, the secret ballot does not protect against bribery and intimidation.

That representatives should be elected every year is but a clear and definite way of saying that their going in and out of office must be repeated at short, regular intervals.

An indirect election of lawmakers has only disadvantages, for the electors at the second stage act irresponsibly; and as their number is much smaller than that of the original electors, it is much easier to corrupt them.

A legislature consisting of two chambers can only be detrimental to the common welfare.

If the second chamber is a House of Lords, an aristocratic body, partly composed of hereditary members, partly of such as are appointed for life by the monarch, their interests will be opposed to the greatest happiness of the great-

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est number. They will have no need of promoting the general welfare; they do not share the want of the people; they have no conception about it, so why should they have active sympathy? An accustomed view of misery no longer moves them to pity. It seems entirely natural to a king that thousands die for the sake of his honor. And everyone who is rich and powerful is a king on a small scale; they wholly support the great one, and, united with him, they sacrifice the general good to their common advantage. The higher one stands in riches, power, and rank, the lesser is his political qualification; not only the moral, but also the intellectual is lacking, for that which most strengthens spiritual power is spiritual labor, but the rich and powerful have no need of this. A king needs only to will; he leaves to others the means of considering how this will and his desires may be realized; and thus the will of most high-born gentlemen is strong, but the understanding weak. The eternal song of praise about the greater political capacity of the higher ranks is purchased and forced, a lie and a fraud. The rich and the powerful can give; and he who hopes to receive anything from them praises them, and after he receives it he praises them again; but praise is cheap. One who is rich and powerful can also withhold favors; yes, even more, he may do one much harm—therefore he will be feared, respected. The rulers have taken care that their praise shall be diffused and that every criticism shall be suppressed. So it came about that the common people always saw the holders of power in the splendor of virtue; and above all, they saw one, that immeasurably rich, that almightiest, that dispenser of riches, power, and honor—the king; and it seemed impossible ever to extract enough from the people to uphold his splendor. In reality,

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however, in consequence of the unchangeableness of human nature, an undeposable monarch is an enemy of his subjects, except of those few who share with him the spoils—and these are the members of the House of Lords.

If the second chamber is so constituted that its interest coincides with the interest of the people—*i.e.*, upon principles similar to those of the popular assembly, it will mean, above all things, a waste of time and money. Furthermore, if it is smaller than the first chamber, the consequence may be that the will of a small minority will dominate the will of the majority. Assume that the first chamber has 400, and the second 40 members; then 21 members of the second chamber could prevent the passage of a law approved by all of the first chamber and 19 of the second. But now the general probability is that the judgment of the majority is right unless there are special reasons which deceive the majority and which do not apply to the minority. It is to be assumed that the first chamber would be elected according to principles and in a manner that would attract to it the best qualified and most trustworthy in every respect. If the second chamber is elected according to similar principles, there is no reason why the minority should have a preponderance of power; but if the members of the second chamber are elected according to another plan, less desirable, or at least no better, there is even less reason for their preference.

However constituted, one of the chambers will become the leading, active one, while the other will play a more or less unimportant rôle. But it will not be content with that position; in order to create respect, it will oppose; it will oppose itself to the best measures, merely because it has no part in them. If there are no real arguments at its dis-

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posal, it will seize upon false ones; and where it cannot prevent, it can at least delay. There will be difficulties without end; the good will come too late.

The bicameral system is bad because it complicates the constitution. The more complicated a system of government and of laws is, the more difficult it is to understand it and the less likelihood there is for one to find his proper place in it. This makes corruption easier and discovery more difficult; for even in a representative democracy, corruption is not entirely excluded. Here too the legislature and the leader of the executive power may unite in oppression and exploitation of the people, even though it is only possible to a lesser degree than in other constitutional forms. The smaller second chamber is easier to corrupt, and it can prevent measures which may be directed against corruption. Beyond this, a bicameral system carries with it vain questions of competence and endless subjects of strife.

As the second chamber is in reality useless and superfluous, there has been contrived for its justification the distinction that the first chamber has more energy, the second more intelligence or, as it is more venerably called, more wisdom. On account of the need of this wisdom the members of the second chamber, it is argued, shall have attained a certain age. The intellectual strength of a person can only serve a general interest if it is coupled with moral strength. Where this is lacking, the greater the capability, the more dangerous it is. But as a matter of fact the moral energy of youth is far greater, the youthful soul responds much more quickly to that enthusiasm in which one is willing to sacrifice himself for the general good. Besides, it need not be feared that in the first chamber the

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youthful members will have a majority, for, the older one becomes, the more occasion will he have to show his efficiency and to win the confidence of his fellow-citizens.

The power of the legislative assembly should in no respect be limited. A prohibition to the effect that the legislature shall not enact or change this or that is bad, and contrary to the principle of the greatest happiness for the greatest number. The good to which otherwise nothing else would be opposed, perhaps approved by all legislators, and by all the people, will thereby be hindered only because when the constitution was formerly established a different opinion prevailed. Such a limitation would then only have been justified if it were certain that those who enacted the constitution were infallible and future generations excelled in virtue and intelligence. That is an empty assumption. Only selfishness, ignorance, and stubbornness can dictate such limitations. It sustains evil; it is the tyranny of the dead over the living. It may appear as if it would prevent evil, but it prevents nothing but good and abolishes no evil that could not be prevented in some other way without this limitation. If a prohibition were prescribed restricting action only for a limited time—say, that the constitution could not be changed for a definite period—it would not be so obviously ineffectual, but still unsalutary. It postpones improvement until it is useless, if not impossible. The longer rulers hold their advantage, the more tenaciously do they cling to it, and the more deeply does their rule become rooted in the feelings of the subjects.

Nevertheless, it is conceivable that such restrictions may be beneficial, and, in fact, they have served a useful purpose, namely, in bad constitutions which did not aim at the greatest happiness of the greatest number, but, on the

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contrary, aimed at a despotic rule of a single individual, or, sometimes, a small group. In those cases the tyrant was forced, in a way, to desist from certain crude forms of oppression and exploitation; and thus originated the so-called charters or fundamental laws in which the despot condescended to promise moderation. In these charters attention was directed to the gravest abuses which strengthened the court of public opinion—*i.e.*, the people—and weakened the rule of force. It is, however, proof of the baseness of a constitution when such restrictions are necessary.

But, it may be asked, is not unlimited power of the legislature despotism? Is it not indispensable to liberty that the power of the state be divided and the separate parts made to balance one another? asks a follower of Montesquieu.

A constitution should not be fashioned according to the theory of Montesquieu or anyone else, but according to the greatest happiness of the greatest number. Montesquieu nowhere referred to this principle and therefore his theory lacks the one firm foundation. It also lacks a clear conception. He speaks as if liberty were the aim of a constitution, whereas every government of necessity limits freedom. The separation of the powers of government does not offer a secure safeguard against its abuse. However cautiously one may divide power, corruption can and will unite the participators to common oppression and exploitation. It has always been thus in all mixed constitutions.

The executive and the court must be subordinated to the legislature, for their task is the execution of the laws. If they do not execute the laws, anarchy will arise. To

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guard against their ascendancy, they must be appointed and removed by the legislative assembly. The protection of the people against the authority of the legislature lies in their constituent power, in their right to elect and remove legislators, and also in the fact that they can easily make use of this right at short intervals and, moreover, punish legislators forgetful of their duty. In addition to removal, it is also necessary to punish disloyal representatives, since many are indifferent to the loss of office; or the illegal gain may, in their eyes, outweigh the value of the office. But in most cases the threat of punishment will be quite sufficient.

Finally, to obey or not to obey the laws, lies with the people. Upon their compliance all power depends.



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THIS bibliography has been deliberately limited to works which refer to the great thinkers dealt with in this volume or to such as point toward the later development of their theories, the idea being to give the reader a selected list of those books that would be most helpful in completing, or at least continuing, the story or picture here set forth. The authors would regard their work as having achieved its main purpose if the student who reads the foregoing pages would thereby be induced to study the works of the masters in the original; their outstanding works will be found in English translation in all libraries under their respective names.

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